



North Dakota Ethics Commission Regular Meeting

Minutes of August 28, 2024

MS Teams

1. **Call to Order:** The meeting was called to order by Chair Paul Richard at 9:00 a.m. The following members of the Ethics Commission were also present: Vice Chair Dave Anderson, Commissioners Ward Koeser, Cynthia Lindquist, and Ron Goodman, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier.
2. **Agenda Additions:** No additions were made.
3. **Approval of Minutes:** The Commission discussed regular meeting minutes from June 26, 2024, and July 10, 2024.

Motion: Commissioner Goodman moved to approve regular meeting minutes from June 26, 2024, and July 10, 2024, as corrected. Motion was seconded by Commissioner Koeser. Chair Richard called for a voice vote. The motion was approved by unanimous voice vote.

4. **Executive Director Update:**
 - Operations Administrator Alisha Maier provided a budget update through the end of June 2024 for the 2023-25 biennium budget. She noted the following totals: current appropriation for the 2023-2025 biennium is \$1,155,297, expenditures in June were \$42,729, total expenditures for the current biennium have been \$520,103 leaving a remaining appropriation for the 2023-2025 biennium of \$635,194. OA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$9,715, explaining this number will fluctuate as we move through the biennium.

OA Maier provided a budget update through the end of July 2024 for the 2023-25 biennium budget. She noted the following totals: current appropriation for the 2023-2025 biennium is \$1,155,297, expenditures in July were \$39,303, total expenditures for the current biennium have been \$559,406 leaving a remaining

appropriation for the 2023-2025 biennium of \$595,891. OA Maier presented an estimated ending balance for the biennium on June 30, 2025, at \$9,718, explaining this number will fluctuate as we move through the biennium.

- Executive Director Rebecca Binstock provided an update on the online forms project. The online forms have been through production with NDIT and have been reviewed by Ethics Commission staff. NDIT is finalizing how the forms are transmitted on the back end before they can go online.

ED Binstock advised starting in July 2025, the online forms creation process will transition from NDIT to individual agencies. This will add a subscription cost to the Commission's budget which was already included in the 2025-2027 biennium request to the legislature.

- ED Binstock provided an update to the Commission on education and outreach initiatives. General Counsel Logan Carpenter updated the Commission's FAQs, and they are now online and available for individuals to review. The questions are organized by topic and are greatly expanded.

Since the Commission's July meeting, GC Carpenter and ED Binstock have presented to the Dakota Credit Union Association, Bismarck Rotary Club, WSI Board of Directors, and Medicaid Medical Advisory Committee.

Commission staff has been preparing for legislative educational sessions. The Commission will be offering educational sessions for the public, lobbyists, state employees, and elected officials. The sessions for the public, state employees, and lobbyists will be held in mid-October and November. These sessions will be conducted in person and through an online platform. Educational sessions for elected officials will occur after election day and be in-person in small groups to allow for questions and discussions as needed.

Commission staff will be reaching out to university and college professors to facilitate governmental ethics discussions in their courses this school year.

- ED Binstock provided an update to the Commission on the COGEL Conference. The Annual COGEL Conference takes place December 8, 2024, through December 11, 2024, in Los Angeles, California. Early bird registration closes October 31, 2024. The agenda for the conference was recently posted and

provided to the commissioners. The Commission has funding set aside for 2-3 staff and/or commissioners to attend.

- ED Binstock provided an update to the Commission on the report to the Judiciary Committee. On September 9, 2024, ED Binstock will provide the report to the Judiciary Committee detailing the activities of the Commission. The activities include the number of complaints received, educational and outreach efforts, and budget status. ED Binstock further advised she will provide: the organization setup, including dates staff were hired and the current commissioner opening; educational information including the FAQs update, webinars, YouTube channel, contact list updates, website updates, presentations, and education materials created; the changes and improvements to the Commission's internal processes and controls and; the budget status update including how and where funds have been spent and the decisions made to save funds in other areas. Vice Chair Anderson will also be in attendance for this meeting.
 - ED Binstock provided an HR update to the Commission. Executive Director Binstock authorized a pay raise for OA Maier in the amount of \$300/month due to increased workload. This pay increase is included in all the Commission's budget projections for the remainder of 2023-2025 biennium as well as the budget for the Commission's 2025-2027 budget. ED Binstock noted this increase is insufficient to account for the increased workload OA Maier has managed and completed over the past year. Funds for an adequate workload increase have been added into the 2025-2027 biennium budget request.
5. **Discussion of Fraud Risk Assessment Review:** The Commissioners were provided a copy of the biannual fraud risk assessment that all agencies are required to complete. ED Binstock advised that staff reviewed what had been completed in the past and did an additional assessment regarding complaints, handling confidential information, and potential disclosure.

Motion: Commissioner Lindquist moved to approve the fraud risk assessment. Motion was seconded by Commissioner Koeser. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

6. **Discussion of Legislative Proposals:** ED Binstock advised that Commission staff have identified action items to address through legislative action to improve the function and effectiveness of the Ethics Commission. Commissioners were provided with and discussed the below draft bill categorizations. Commissioners were also provided with a flow chart regarding the enforcement action process proposed bill. ED Binstock recommended the commissioners review and approve the categorization of the proposed bills prior to staff drafting language.

(1) Proposed Bill: Advisory Opinions

- a. Ensuring language of N.D.C.C. § 54-66-04.2 (Advisory Opinion – Authority – Effect) reflects that a person may request an advisory opinion only regarding that person’s action and not the actions of other.
- b. Statutory language to allow informal advice by Commission staff to those subject to the jurisdiction of the Commission and permit reliance on informal advice received.

(2) Proposed Bill: Enforcement Action Process

- c. Amend N.D.C.C. § 54-66-12 (Confidentiality) to clarify public officials may publicly respond to information publicly shared by a complainant or other non-state employee related to a complaint.
- d. Enact protections for state employees from retaliation who communicate relevant information to the Commission or assist the Commission in its investigation of a complaint.
- e. Amend the complaint process to greatly reduce the potential for political weaponization, with companion ethics rules to be adopted.
- f. Add a process by which the Commission can either issue a subpoena or request a court issue a subpoena for an individual or entity to produce a document or appear.
- g. Remove the phrase “accused individual” in Ch. 54-66 in favor of using the term “respondent.”

(3) Proposed Bill: Criminal Penalty for Gifting Violation

- h. Enactment of a criminal penalty for violation of Article XIV, §2(1). The legislature was required to set a criminal sanction for violation of this section (Lobbyist Gift to Public Officials).

(4) Proposed Bill: Lobbying By Elected Officials

- i. Change title of N.D.C.C. § 54-66-13 to clarify this section applies to elected officials instead of all public officials.

(5) Proposed Bill: Campaign Financing and Electioneering (To be discussed at the Commission's September meeting)

- j. Address meaningful enforcement of campaign finance and disclosure laws.
- k. Companion legislation to support the adoption of the financial disclosure rules (i.e. permitting forms to be filed with the secretary of state).

Motion: Vice Chair Anderson moved to approve categorization of the proposed bills and direct Commission staff to draft legislation. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

7. Discussion of Travel Disclosure Rules and Financial Disclosure Rules:

Commissioners were provided with draft copies of the travel disclosure rules and financial disclosure rules.

Travel Disclosure Rules: ED Binstock advised the draft travel rules only apply to elected officials, the governor's cabinet members, and members of the Ethics Commission, including staff. ED Binstock advised that beginning July 2025, Commission staff can create a form which can be electronically submitted through the Commission's website. Commission staff have reached out to NDIT to learn how those forms can then be viewable on the Commission's website. Commissioners discussed the drafted effective date to submit the forms, consequences for failure to file the form, and the definitions regarding third party travel.

Financial Disclosure Rules: ED Binstock reminded the Commission that there is currently a statute in place that requires both local and statewide candidates to file a financial disclosure statement. This form is only filed when you are a candidate for office and once elected, it is not renewed or filed again unless they are again a candidate. This is done at a local county/city level, and the form is filed with the Secretary of State, or county or city auditor, depending on what office the candidate is running for. As drafted, the financial disclosure rules require public officials to file a financial disclosure statement on an annual basis. This would apply only to public officials as the county/city candidates falls under a separate statute. The Secretary of State's Office has been working on a new filing system and they believe it will be able to handle the annual financial disclosure statement submissions. They are hoping to have the new filing system in place by December 31, 2025. The Commission would likely need to introduce legislation to give the Secretary of State authority to accept those filings. The

Commissioners provided approval for Commission staff to discuss next steps with the Secretary of State's Office.

8. **Executive Session:** The Commission entered executive session during the general meeting at 12:04 p.m. to discuss Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, 22-010, 23-005, 23-011, 23-014, 24-008, 24-011, 24-013, 24-015, 24-020, 24-023, and 24-024. Information regarding the content and parties to a complaint to the Ethics Commission is confidential. The following participants entered the executive session: Chair Paul Richard, Vice Chair Dave Anderson, Commissioners Ward Koeser, Cynthia Lindquist, and Ron Goodman, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier. Chair Richard also advised that Special Assistant Attorney General Patricia Monson would be joining a portion of Executive Session.

Special Assistant Attorney General Patricia Monson was only in attendance during the discussion of complaint Nos. 22-003 through 22-010.

Chair Richard left the meeting and was not in attendance during discussion of complaint No. 23-011.

Executive Session ended at 1:06 p.m. and Commissioners and staff returned to the regular meeting.

During the Executive Session, the Commission discussed Complaint Nos. 22-003, 22-004, 22-005, 22-006, 22-007, 22-008, 22-009, 22-010, 23-005, 23-011, 23-014, 24-008, 24-011, 24-013, 24-015, 24-020, 24-023, and 24-024.

Motion: Commissioner Koeser moved to direct ED Binstock to dismiss Complaint No. 23-005 pursuant to N.D.C.C. § 54-66-08(1)(a). Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

Motion: Commissioner Koeser moved to direct ED Binstock to summarily dismiss Complaint No. 24-020. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

9. **Election of Chair & Vice-Chair:** Chair Richard advised the Chair and Vice-Chair seats expire on August 31, 2024. Vice Chair Anderson was nominated to serve as Chair and Commissioner Koeser as Vice Chair. Commissioner Koeser advised his term expires in 2025 and that he is not certain that he would be able to finish out the entire term as Vice Chair, but he would take the seat until then if elected. No other nominations were made.

Motion: Commissioner Lindquist moved to elect Vice Chair Dave Anderson as Chair and Commissioner Ward Koeser as Vice Chair to serve from September 1, 2024, to August 31, 2026. Motion was seconded by Commissioner Goodman. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

10. **Adjourn:** Having no further business, the meeting was adjourned at 1:12 p.m. The next regular meeting is scheduled for September 25, 2024, at 9:00 a.m., livestreamed with MS Teams.

Approved on 9/25/24



Rebecca Binstock, Executive Director, North Dakota Ethics Commission