

Before the North Dakota Ethics Commission

Requested by:
Harrison Weber, Executive Director,
Red River Valley Sugarbeet
Growers Association

ADVISORY OPINION NO. 25-05

On May 14, 2025, the Ethics Commission (“Commission”) received an advisory opinion request from a registered lobbyist, Mr. Harrison Weber, the executive director of the Red River Valley Sugarbeet Growers Association (“Association”). Based on its review of the request, the Commission decided to issue an advisory opinion pursuant to N.D.C.C. § 54-66-04.2. The Association seeks guidance regarding a proposed sugar beet harvest and factory tour for North Dakota legislators. The questions presented to the Commission for consideration are summarized below.

1. Is the Association a lobbyist such that the lobbyist gift prohibition applies to the Association?
2. If the Association hosts the tour, does the Association engage in lobbying as defined in N.D. Admin. Code § 115-03-01-01(4)(d)?
3. Does the tour meet the definition of a private social and educational event under the Commission’s rules?
4. May the Association pay for the travel expenses, in the form of bus transportation, to facilitate the tour?
5. Does the analysis change if the travel is in North Dakota, Minnesota, or both?
6. Does an issue arise if the factory portion of the tour is located in Minnesota?
7. May the Association pay for breakfast and lunch for legislators under the exception in N.D. Admin. Code § 115-03-01-03(7)? Does the analysis change if the food is served in Minnesota?
8. Do requirements or limitations exist surrounding which legislators can be invited?

I. FACTUAL BACKGROUND

In the request for an advisory opinion, Mr. Weber describes the Association and the event at issue in detail. He also provides a sample agenda for the tour. The request states:

The RRVSGA is a voluntary, dues paying, 501(c)(5) non-profit organization who represents the growers for the American Crystal Sugar Company (ACSC) on local, state and national issues. ACSC is a farmer-owned cooperative who plants approximately 400,000 acres of sugarbeets each year in the Red River Valley in both North Dakota and Minnesota. ACSC processes and sells sugar to consumers and customers nationwide from 5 sugarbeet factories located in Moorhead MN, Hillsboro ND, Crookston MN, East Grand Forks MN and Drayton ND.

RRVSGA hosts numerous harvest, and factory tours each year serving a wide variety of different people and diverse interests. Our goal of each of these tours is to provide an educational experience and an overview of how sugar is grown, extracted and ultimately put into a bag and onto our dinner tables or store shelves. Depending on weather, time and logistical constraints, a common agenda for harvest and field tours is below:

7:00 – 8:00 Working Breakfast at Factory Office – (coffee and rolls). The breakfast meeting will show the equipment participants will be seeing and riding in and explain what they are used for. We will go over safety requirements and provide a review of the events for the day as well as answering initial questions.

8:00 – 8:45 Depart and drive to sugarbeet field, somewhere within a 40-mile radius of the FM area.

8:45 – 10:30 Arrive at Sugarbeet Grower Field site. Sugarbeet family farm will be harvesting and delivering to an outside receiving station. Participants observe sugarbeet harvest operations. Ride along in a defoliator, a harvester, and a beet truck. Riding along in equipment shows participants each step of the sugarbeet harvesting process. It is vital to understand modern production practices farmers use and the challenges farmers face.

10:30 – 10:45 Depart/Travel to “Outside Receiving Station.”

10:45 – 11:00 Observe outside receiving station, storage and airflow related to sugarbeet storage. It is important for participants to understand how many people it takes to safely operate these rural piling sites and how sugarbeets should be properly stored in order to make a high-quality product.

11:00 – 12:00 Depart /Travel to Moorhead Sugar Factory.

12:00 – 12:30 Working Lunch - Arrive at American Crystal Sugar Co. Sugar Factory, Moorhead, MN. Participants will watch a video giving a virtual processing plant tour overview, and the sugar packaging area and hear about the Technical Services Center. A Factory Manager will lead a discussion of the specific processing techniques and equipment used in the factory following the video for the remainder of the time.

12:30 – 2:00 American Crystal Sugar Processing Plant Tour. Factory Manager will lead a walkthrough tour of the sugar factory and sugar packaging plant. Participants will see where sugarbeets are processed into sugar, and how they are packaged into consumer sized bags. This is relevant to see because it will complete the circle from the farmer to the processor, and onto the grocery store shelves. It also helps to learn about the logistical constraints that industry needs to overcome to make sure consumers have access to sugar.

2:00 Participants return to vehicles and return home.

Here, the RRVSGA proposes to host a similar tour as listed above for specifically North Dakota legislators. Due to logistical constraints – the RRVSGA is proposing to invite Fargo, West Fargo and potentially surrounding legislative district members. If approved, RRVSGA will likely host another tour in the northern part of the RRV at the East Grand Forks Factory for legislators located there. This tour does not have an exact date but would likely occur sometime between August 15th - September 20th. During the tour, Harrison Weber, Executive Director of the RRVSGA would be present at all times. Harrison is a registered lobbyist in North Dakota on behalf of the RRVSGA. ACSC does not have any North Dakota registered lobbyists. A substantial portion of RRVSGA's overall work and mission focuses on Federal issues; primarily maintaining a strong U.S. Sugar Program and Crop Insurance Protections. These two critical issues are regulated and overseen by the federal government. State Legislators do not have the ability to vote on these issues. If allowed, we would propose to explain the U.S. Sugar Program, how it functions and that it operates at Zero Cost to U.S. Taxpayers at some point in the day for their awareness. RRVSGA does on occasion lobby state lawmakers during the legislative sessions on bills that are beneficial toward the larger agricultural community but would not be addressing any state issues during this tour. No lobbying efforts will take place on this tour, this tour is for educational purposes only.

II. LEGAL BACKGROUND

In North Dakota, ethics laws governing gifts to public officials are found in three sources: (1) Article XIV of the North Dakota Constitution; (2) ethics rules in N.D. Admin. Code ch. 115-03-01; and (3) the civil penalty provision in N.D.C.C. § 54-66-03(3).

A. Article XIV

Article XIV, § 2(1), N.D. Const., provides a baseline prohibition of lobbyist gifting. It states:

A lobbyist may not knowingly give, offer, solicit, initiate, or facilitate a gift to a public official. A public official may not knowingly accept a gift from a lobbyist. These prohibitions do not apply if the lobbyist is an immediate family member of the public official. “Gift,” as used in this subsection, means any item, service, or thing of value not given in exchange for fair market consideration, including gifts of travel or recreation. However, “gift” does not mean any purely informational material, campaign contribution, or, in order to advance opportunities for North Dakota residents to meet with public officials in educational and social settings inside the state, any item, service, or thing of value given under conditions that do not raise ethical concerns, as determined by rules adopted by the ethics commission. Such rules must be adopted within two years after the effective date of this article. So as to allow for the adoption of these rules, these prohibitions shall take effect two years after the effective date of this article. Appropriate civil and criminal sanctions for violations of this subsection shall be set by the legislative assembly.

Article XIV, § 4(2), N.D. Const., defines “public official” stating, “For the purposes of this article, ‘public office’ or ‘public official’ means any elected or appointed office or official of the state’s executive or legislative branch, including members of the ethics commission, or members of the governor’s cabinet, or employees of the legislative branch.” The Commission may assess a civil monetary penalty on any individual, a public official and/or lobbyist, who violates the constitutional prohibition. N.D.C.C. § 54-66-03(3).

B. Ethics Rules

Article XIV directs the Commission to adopt exceptions to the gift prohibition in order “to advance opportunities for North Dakota residents to meet with public officials in educational and social settings inside the state.” N.D. Const. art. XIV, § 2(1). In accordance with Article XIV, § 2(1), the Commission adopted ethics rules regarding lobbyist gifts in N.D. Admin. Code ch. 115-03-01. These rules provide exceptions to Article XIV’s lobbyist gift prohibition. The rules also define when someone is considered a lobbyist for purposes of the lobbyist gift prohibition. N.D. Admin. Code § 115-03-01-01(4)-(5); N.D. Op. Att’y. Gen. 2020-L-09, at 1, 6.

1. Definitions of Lobby and Lobbyist

The definitions of “lobby” and “lobbyist” are broader under the lobbyist gift rules than in statute. *Compare* N.D.C.C. § 54-66-01(7)-(8) *with* N.D. Admin. Code § 115-03-01-01(4)-(5). These different definitions serve separate and distinct purposes. The statutory definition regulates when a person is required to register as a lobbyist with the secretary of state and is limited to legislative lobbying. N.D.C.C. § 54-66-01(7)-(8); N.D.C.C. ch. 54-05.1. However, the Commission’s more expansive definition applies for the purpose of determining when an individual violates Article XIV’s lobbyist gift prohibition.

With the purpose of the lobbyist gift prohibition in mind, the Commission exercised its constitutional authority to expand the definition of lobby “to address attempts to otherwise influence public official action or decision” that occur outside the legislative process. N.D. Op. Att’y. Gen. 2020-L-09, at 4-5. The Commission’s rules expand “lobbying” to also include “[a]ttempts to secure passage, amendment, or defeat of any administrative rule or regulation by any department, agency, or body of the state’s executive branch” and “[a]ttempts to otherwise influence public official action or decision.” N.D. Admin. Code § 115-03-01-01(4)(c)-(d). The full definition of lobby under the Commission’s rules includes:

- a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly or the approval or veto of any legislation by the governor of the state.
- b. Attempts to influence decisions made by the legislative management or by an interim committee of the legislative management.
- c. Attempts to secure passage, amendment, or defeat of any administrative rule or regulation by any department, agency, or body of the state’s executive branch.
- d. Attempts to otherwise influence public official action or decision.

N.D. Admin. Code § 115-03-01-01(4).

An “individual, partnership, entity, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons” who engages in lobbying is considered a “lobbyist.” *Id.*; N.D. Admin. Code § 115-03-01-01(5)-(6). However, certain individuals are not considered a “lobbyist” under the statutes and ethics rules, regardless of their conduct. These individuals include:

- (1) A legislator;
- (2) A private citizen appearing on the citizen’s own behalf;
- (3) An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in that person’s official capacity;
- (4) [An individual] invited by the chairman of the legislative management, an interim committee of the legislative management, or a standing committee of the legislative assembly to appear before the legislative management, interim committee, or standing committee for the purpose of providing information; and
- (5) An individual who appears before a legislative committee for the sole purpose of presenting testimony on behalf of a trade or professional organization or a business or industry if the individual is introduced to the committee by the registered lobbyist for the trade or professional organization or the business or industry.

N.D. Admin. Code § 115-03-01-01(5).

2. Exceptions to Article XIV's Lobbyist Gift Prohibition

The Commission's lobbyist gift rules establish eight exceptions to Article XIV's prohibition:

- (1) A gift by a lobbyist who is a member of the public official's immediate family.
- (2) Any item given where the public official is paying fair market value for the item.
- (3) Purely informational material.
- (4) A campaign contribution that is given in accordance with all applicable state laws, rules, and regulations governing campaign contributions.
- (5) Reimbursement or payment for transportation, lodging costs, and meal costs not to exceed rates as authorized under North Dakota Century Code section 44-08-04 and office of management and budget Fiscal Policy #505 to facilitate attendance to a public or private educational and social event within the state, if the public official meaningfully participates in the event as a speaker or panel participant, presenter, or ceremonial event appropriate to the position, or if attendance is appropriate to the performance of official duties.
- (6) Gifts or other things of value shared as a cultural or social norm as part of a public or private social and educational event.
- (7) Food and beverage served for immediate consumption at any private or public social and educational event.
- (8) Food or beverage with a value of ten dollars or less, excluding gratuity, purchased for a public official in conjunction with an informal social and educational event. The purchased food and beverage must be consumed during the event. A state resident must be present but is not required to be the purchaser of the food or beverage.

N.D. Admin. Code § 115-03-01-03.

The rules further define and set forth the criteria for private or public social and educational events which must be held in conjunction with exceptions five (5) and six (6) outlined above. Additionally, the sponsor of a private or public social and educational event must file a notice form through the Commission's website prior to hosting the event. N.D. Admin. Code § 115-03-01-04.

3. Out-of-State Events

In multiple advisory opinions, the Commission analyzed out-of-state events and Article XIV's lobbyist gift prohibition. *E.g.*, N.D. Ethics Comm'n, Advisory Op. 23-02, 4-5 (2023) (analyzing an out-of-state event for the North Dakota Soybean Growers Association); N.D. Ethics Comm'n, Advisory Op. 25-03, 7-8 (2025) (analyzing an automotive trade show in Las Vegas for a legislator). The Commission has summarized the analysis for out-of-state events to two questions: (1) whether

the item, service, or thing of value is a gift; and (2) if the item is a gift, whether it is “given in conjunction with an effort to lobby a public official by a lobbyist.” N.D. Ethics Comm’n Advisory Op. 23-02, 5 (2023). When answering the second question, the Commission analyzes the event on a case-by-case basis to determine whether lobbying activity will occur.

III. ETHICS ANALYSIS

To date, when considering in-state events, the Commission has not analyzed in detail the lobbying activity at the events and whether the sponsor met the definition of a lobbyist. The facts presented in previous advisory opinions made it clear lobbying activity would occur, and an exception needed to apply. Here, however, Mr. Weber informs the Commission lobbying activity will not occur on the tour, which will take place both in state and out of state. As a result, for purposes of the lobbyist gift prohibition, the Commission must now answer how and when a person becomes a lobbyist and when that status does not apply. The Commission must further analyze the meaning of the word lobbying and the activity occurring on the tour.

A. Lobbyist Status is Activity Based and Not Permanent

Although the Commission’s definition of lobbyist overlaps with the statutory definition of a registered lobbyist, the two definitions serve separate and distinct purposes. Registration as a lobbyist does not mean a person or organization is a lobbyist for purposes of the lobbyist gift prohibition. While it can be indicative that someone meets the Commission’s definition of a lobbyist, it is not dispositive. Instead, one must analyze the Commission’s definition of lobbyist in the gift rules.

When reviewing the Commission’s rules, one must look to the plain language of the rule. *See State v. Ebertz*, 2010 ND 79, ¶ 8, 782 N.W.2d 350. Upon review, it is clear the Commission’s definitions of lobby and lobbyist focus on event-based activities. It describes specific, momentary actions. The definitions do not create an ongoing status or occupation. One must engage in “lobbying” to meet the definition of “lobbyist.” The critical determination then turns to the action and timing of this lobbyist status. However, the rule does not explicitly define the window of time in which a person is considered a lobbyist when the person engages in lobbying activity.

Examining the rule more closely, it uses present tense language to describe lobbying activity. The use of present tense, and not past tense, indicates being a lobbyist is tied to current or proximate lobbying activity. Once a person stops lobbying activity, they are no longer a lobbyist for the purpose of the lobbyist gift prohibition. Therefore, the Commission will look at the current and proximate timing of lobbying to determine whether someone is a lobbyist under the gift rules.

B. The Association is Not a Lobbyist for Purposes of the Tour

The fact that the Association has previously lobbied during a legislative session does not make it a lobbyist for purposes of the tour, per se. Instead, the Commission must analyze any lobbying activity that occurs during the tour or proximate in time to the tour to make this determination.

According to Mr. Weber, “No lobbying efforts will take place on this tour, this tour is for educational purposes only.”

By hosting the tour, the Association is not currently engaging in lobbying activity under the Commission’s rules. First, the Association is not attempting to secure the passage of legislation. It is focusing on educating legislators on federal issues. Second, the Association is not attempting to influence interim committee decisions or legislative management. According to Mr. Weber, it will not be addressing state issues at all. Third, by not addressing state issues, it will not be addressing state administrative rules or regulations. Finally, other attempts to “influence public official action or decision” are not present in the description provided by Mr. Weber. The tour serves to educate legislators on how sugar beets are grown, harvested, and used in the Red River Valley.

While Mr. Weber acknowledges the Association “does on occasion lobby state lawmakers during the legislative session on bills that are beneficial toward the larger agricultural community,” the legislative assembly is not in session, and it does not appear the Association will push for future legislation during the tour. Additionally, the lobbying activity the Association has engaged in is not proximate in time to the proposed dates for the tour. As a result, the Association is currently not a lobbyist.

If, however, the Association engages in lobbying activity close in time to the tour, it would meet the definition of a lobbyist and would need to comply with the lobbyist gift rules. For example, if the Association hosts a dinner the night before the tour and encourages legislators to draft and support a future bill benefiting the sugar beet industry, it would be engaging in lobbying activity. Because the described lobbying activity would occur proximate in time to the tour, the Association would be considered a lobbyist under the Commission’s definition. However, the Association does not propose engaging in such activity within its sample agenda.

C. Mr. Weber’s Status as a Registered Lobbyist

Mr. Weber further asks the Commission to analyze his status as a registered lobbyist and his involvement in organizing, planning, and attending the tour. As noted above, his status as a registered lobbyist is not dispositive to whether he is a lobbyist under the Commission’s lobbyist gift rules. Instead, like the Association, the Commission will look to the activity engaged in and the current or proximate timing of it to the event at issue.

Here, like the Association, Mr. Weber is not engaging in lobbying activity during the tour or close in time to the tour. Instead, Mr. Weber will assist in facilitating the educational program and the tour will not include lobbying activity. Therefore, the Commission determines Mr. Weber is not a lobbyist for purposes of the tour.

D. The Lobbyist Gift Exceptions

The request asks the Commission to provide further guidance regarding payment of travel expenses through the bus tour and providing a meal in Minnesota during the tour. When a person is not a lobbyist, the lobbyist gift prohibition does not apply. N.D. Const. art. XIV, § 2(1); *see*

generally N.D. Ethics Comm’n, Advisory Op. 23-02 (2023). Because the Commission has determined the Association and Mr. Weber are not lobbyists for purposes of the tour, no exception is necessary to provide the bus transportation and food for immediate consumption.

E. Invite List

The Commission has also been asked to provide guidance on which legislators the Association can invite. There is no Commission rule designating who sponsors can invite and who they must invite. It is up to the discretion of the sponsoring entity to determine who it wishes to invite.

F. Remaining Questions

Because the Commission has determined the Association and Mr. Weber are not lobbyists for the purpose of the tour, the Commission does not need to answer the remaining questions in relation to its lobbyist gift rules. The Association may host the tour as proposed. However, if the facts change and the Association and Mr. Weber engage in lobbying during or in proximate timing to the tour, they will be considered lobbyists under the Commission’s definition and may need to seek further guidance from the Commission.

IV. CONCLUSION

The Commission answers Mr. Weber’s questions as follows:

1. No, the Association and Mr. Weber are not lobbyists for purposes of the tour.
2. No, hosting the tour as described in the request is not lobbying under the Commission’s definition. The Association may host it as described and provide bus transportation and meals during the day.
3. The Commission does not need to answer questions three through eight because the Association and Mr. Weber will not be considered lobbyists for the purpose of the tour.
4. The Association has the discretion to choose who to invite on the tour.

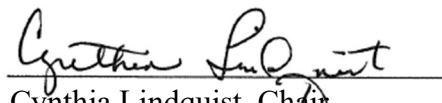
Please note the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and court orders or opinions. Until and unless subsequent developments in the law occur, criminal and civil penalties may not be imposed upon an individual for an action taken in accordance with this advisory opinion when: (1) the individual acts in good faith; and (2) the material facts surrounding the action taken are substantially the same as the conduct presented in the opinion. N.D.C.C. § 54-66-04.2(4).



In accordance with N.D.C.C. § 54-66-04.2, the Commission will publish this advisory opinion on its website. The Commission thanks Mr. Weber for seeking advice regarding this issue.

This advisory opinion was approved by the Commission at a special meeting held on August 18, 2025.

Dated this 18th day of August, 2025.


Cynthia Lindquist, Chair
North Dakota Ethics Commission