

INDUSTRIAL COMMISSION OF NORTH DAKOTA

CODE OF ETHICS

SECTION I: PREAMBLE.

- (A) The proper operation of democratic government requires that a public official or employee be independent and impartial; that government policy and decisions be made through the established process of government; that a public official or employee not use public office to obtain private benefits; that a public official or employee avoid action which creates the appearance of using public office to obtain a benefit; that a public official or employee administer state programs and laws in a manner that does not give an advantage to a particular business or person; and that the public have confidence in the integrity of its government and public officials and employees.
- (B) In accordance with these principles, this Code of Ethics sets forth the Industrial Commission's standards of conduct and governing statements concerning employment, financial interests, and other matters for Commission members and Employees and for those seeking or doing business with the Commission.
- (C) The provisions of this Code of Ethics shall be reviewed and signed by each Commission member at the time of election or appointment to office and by each Employee at the time of its adoption and annually thereafter, and to each new Employee at the time of employment or appointment.
- (D) The provisions of this Code of Ethics are not intended and shall not be construed to deprive an Employee, or any Business or Person doing or seeking to do business with the Commission, of the rights and privileges guaranteed or afforded them by the Constitution and laws of North Dakota.

SECTION II: DEFINITIONS

The following definitions shall be equally applicable to both the singular and the plural forms of any of the terms defined.

- (A) The term "Anything of Value" includes any of the things described below which exceed a worth of twenty-five dollars in value if received in state or fifty dollars in value if received out of state; and was not offered, given, or agreed to be given to influence the action of an employee or to reward an employee for the performance of their duties:
 - (1) A pecuniary item, including money, or a bank bill or note.
 - (2) A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money.
 - (3) A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money.
 - (4) A stock, bond, note, or other investment interest in a Business or Person.
 - (5) A receipt given for the payment of money or other property.

- (6) A right in action. (Personal property you have a right to sue for.)
- (7) A gift or tangible good, or an interest in a gift or tangible good. It does not include a gift or tangible good in the form of:
 - (a) Unsolicited printed informational or promotional material.
 - (b) A gift, devise, or inheritance from an individual's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of that individual, if the donor is not acting as the agent or intermediary for someone other than a person covered by this paragraph.
 - (c) An unsolicited personalized plaque or trophy.
 - (d) Food and beverage consumed by an Employee in connection with the performance of an official duty.
- (8) A loan or forgiveness of indebtedness.
- (9) A work of art, antique, or collectible.
- (10) An automobile or other means of personal transportation.
- (11) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested, in realty, a leasehold interest, or other beneficial interest in realty.
- (12) An honorarium or Compensation.
- (13) Tickets, passes or special privileges given to an Employee, Family Member, or other person when the tickets, passes or special privileges are not required to perform an official duty unless the same opportunity to obtain the tickets, passes or special privileges is extended under the same conditions to the public at large and no Employee used his or her position to secure the tickets, passes or special privileges for the Employee, Family Member or other person
- (14) A rebate or discount in the price of Anything of Value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that individual's status as an Employee.
- (15) The sale or trade of something for Compensation that would ordinarily not be available to a member of the public.
- (16) A promise or offer of employment.
- (17) Any other thing that has pecuniary or compensatory value to a Business or Person.

- (18) The designation by an Employee of a Business or Person or a charitable or non-profit organization to accept Anything of Value which the Employee is prohibited from accepting directly or the making of a suggestion that Anything of Value which has been offered to the Employee and which the Employee is prohibited from accepting directly be given to a Business or Person or a charitable or non-profit organization.
- (19) Anything of Value does not mean a campaign contribution properly received and reported in accordance with N.D.C.C. Chapter 16.1-08.1.

The Commission's agencies may also identify additional things of value.

- (B) The term "Business or Person" includes an individual, proprietorship, firm, partnership, joint venture, cooperative, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, limited liability company, political subdivision or group of persons acting in concert.
- (C) The term "Commission" means the Industrial Commission of North Dakota.
- (D) The term "Compensation" means Anything of Value given for services rendered or to be rendered.

The term does not include salaries, fees and other compensation paid by the state in consideration for which the services are performed nor reimbursement of expenses if the reimbursement:

- (1) Does not exceed the amount actually expended for the expenses, and
- (2) Is substantiated by an itemization of expenses.

(E) The term "Employee" means:

- (1) Members of the Industrial Commission.
- (2) Industrial Commission staff.
- (3) All staff members of agencies overseen by the Industrial Commission--namely:
 - (a) Bank of North Dakota.
 - (b) North Dakota Building Authority.
 - (c) North Dakota Geological Survey.
 - (d) North Dakota Housing Finance Agency.

- (e) North Dakota Mill and Elevator.
 - (f) North Dakota Municipal Bond Bank.
 - (g) Oil and Gas Division.
- (4) Non-classified staff of the Governor, Attorney General and Commissioner of Agriculture who deal with Industrial Commission issues.
- (F) The term "Executive Director" means the individual appointed by the Industrial Commission to serve in the capacity of Executive Director for the Commission.
- (G) The term "Family Member" means an Employee's spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or an individual who is a member of an Employee's household.
- (H) The term "Immediate Family" means any individual who resides with an Employee for more than six (6) months in a year, or who is claimed as a dependent for tax purposes, or who is the child or parent of an Employee.
- (I) The term "Private Interest" includes the interest of an Employee or the Employee's Immediate Family in a Business or Person whereby the Employee or the Employee's Immediate Family would gain a benefit, privilege, exemption or advantage which is not available to the general public from action taken by the Commission or a Commission agency or program. Private Interest does not include ownership of stock in a mutual fund.

SECTION III: GENERAL

An Employee should avoid any action which would result in or might create the appearance of:

- (A) Using public office for private gain.
- (B) Giving preferential treatment to any Business or Person.
- (C) Losing independence or impartiality.
- (D) A Commission decision being made outside official channels.
- (E) Affecting adversely the confidence of the public in the integrity of the Commission or any of its agencies, departments or programs.

SECTION IV: PROHIBITION OF ACCEPTANCE OF ANYTHING OF VALUE; EXCEPTIONS AND DISCLOSURE

- (A) An Employee is prohibited from accepting Anything of Value unless written disclosure is made as follows:

- (1) If an Industrial Commission member or the head of an Industrial Commission agency, to the Executive Director;
- (2) If an Employee of an Industrial Commission agency, to the agency director, who shall immediately forward a copy of every disclosure to the Executive Director;
- (3) If an Employee of the Governor, Attorney General or Commissioner of Agriculture who is subject to this Code, to the Executive Director;
- (4) If the Executive Director, to the Industrial Commission.

The Executive Director shall provide the information disclosed to the Industrial Commission at a meeting of the Industrial Commission at least quarterly, and at any other time as directed by the Industrial Commission.

- (B) An Employee, their spouse, minor children and members of their household are not prohibited from exchanging presents between friends and relatives who own or are employed by a Business or Person. Circumstances must indicate a personal rather than business relationship. No disclosure is required for a present received under the terms of this subsection.
- (C) An Employee is not prohibited from receiving payment of witness fees as provided by N.D. Admin. Code §§ 4-07-16-03, 4-07-16-04, and 4-07-16-06. No disclosure is required for fees received under the terms of this subsection.
- (D) An Employee is not prohibited from purchasing for full consideration Anything of Value from a Business or Person if the transaction occurs in the ordinary course of the business of the Business or Person. No disclosure is required for a purchase made under the terms of this subsection.

SECTION V: MISUSE OF OFFICE

- (A) An Employee shall not use state-owned property for any purpose which is not related to the Employee's employment or official position.
- (B) This Section does not prohibit:
 - (1) The limited use of state-owned property by an Employee for a non-governmental purpose if all the following requirements are met:
 - (a) The use does not interfere with the performance of the Employee's public duties.
 - (b) The cost or value related to the use is nominal.
 - (c) The use does not create the appearance of impropriety.
 - (d) The use is not for a political purpose.

- (2) The use of property, records or information lawfully obtained from the state which is available to the general public.

SECTION VI: USE OF CONFIDENTIAL OR OTHER GOVERNMENTAL INFORMATION.

For the purposes of this Section, the term "Confidential Information" means any information or records which are not public records under the Constitution and laws of North Dakota. Each Commission agency should attach to this Code of Ethics a summary of the statutory provisions regarding Confidential Information as they apply to that particular agency.

- (A) An Employee shall not use or disclose Confidential Information obtained in the course of or by reason of the Employee's official capacity or position in any manner which is contrary to the Constitution and laws of North Dakota.
- (B) An Employee shall not use Confidential Information obtained in the course of or by reason of the Employee's official capacity or position in any manner with intent to result in financial gain to the Employee, a Family Member, or to any Business or Person.
- (C) An Employee is prohibited from being involved in financial transactions as a result of, or in primary reliance upon, any information gained through the Employee's official duties or position. Information gained through official duties are those facts and other data that relate to the Employee's official duties or to the functions of the employing component that would not be available to the Employee were he or she not an Employee unless the information has been publicly distributed.

SECTION VII: VOTES, DELIBERATIONS AND DISCUSSIONS

For the purposes of this Section, the term "Associated" means when an Employee or a member of the Employee's Immediate Family is a director, officer, fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, at least two (2) percent or a value of \$5,000 or greater, of the outstanding equity of any Business or Person. An Employee, or a member of the Employee's Immediate Family, is not considered Associated if the ownership or control is through a mutual fund. The restrictions of this Section apply to a Business or Person in which the Immediate Family of an Employee has a Private Interest or with which the Immediate Family of an Employee is Associated if the Immediate Family's Private Interest, or a Business or Person with which the Immediate Family is Associated, has a reasonably foreseeable benefit from a matter under consideration.

- (A) An Employee shall not participate in, vote on, or attempt to influence a decision of the Commission or any of its agencies with respect to a Business or Person in

which the Employee or the Employee's Immediate Family has a Private Interest or with which the Employee or the Employee's Immediate Family is Associated. For the purpose of this Section, the term "Private Interest" includes detriment to a business competitor of the Business or Person with which the Employee or the Employee's Immediate Family is Associated. This prohibition does not apply to an Employee's salary or employee benefits.

- (B) An Employee may not participate in any manner in a matter of Commission business involving the Employee's agency or program if the Employee has a Private Interest in the matter and has any decision-making authority with respect to the matter. A Commission member may not participate in any manner in a matter of Commission business if the Commission member has a Private Interest in the matter. Neither an Employee or a Commission member is prohibited from participating in a matter in which their Private Interest is solely as a member of a profession, occupation or class and any potential benefit to the Employee or Commission member would also benefit all other members of the profession, occupation or class to the same extent as it would benefit the Employee or Commission member.
- (C) An Employee may participate in, vote on, or influence or attempt to influence an official decision of the Commission or the Employee's agency if the only Private Interest or reasonably foreseeable benefit that may accrue to the Employee is incidental to the Employee's position, or accrues to the Employee as a member of a profession, occupation, or large class, to no greater extent than the Private Interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.
- (D) The abstention of an Employee from participating in the discussion and vote on the decision must be recorded in the appropriate entity's minutes.
- (E) If an Employee has a Private Interest in any matter of Commission business involving the Employee's agency or program, the Employee shall make a full written disclosure to the Commission of the Private Interest when it is acquired or when it becomes a matter of Commission business, and on an annual basis thereafter. If a Commission member has a Private Interest in any matter of Commission business involving the Commission, any agency, or program managed, controlled or overseen by the Commission, the Commission member shall make a full written disclosure to the Commission of the Private Interest when it is acquired or when it becomes a matter of Commission business, and on an annual basis thereafter.

SECTION VIII: LOANS

(A) Bank of North Dakota ("Bank").

Bank of North Dakota staff, Industrial Commission members, their staff who work with Bank matters, their Immediate Families, or any Business or Person in which they have a Private Interest or with which they are Associated, may make a loan or loan participation with the Bank. The loan shall involve no preferential treatment with respect to interest rates, maturity, terms, amortization requirements, or the quality and amount of collateral pledged. The proposed liability of a loan to an executive officer of the Bank or to an Industrial Commission member, or a member of the Immediate Family of either, may not exceed \$25,000 unless the loan is approved by an unanimous vote of the Investment Committee, the Bank Advisory Board and the Industrial Commission. Any Employee subject to this provision may not be involved in any decision regarding the loan on behalf of the Bank. The Employee may only be involved in the loan on his or her own behalf if the loan is to the Employee. The limitation does not apply to loans purchased by the Bank on the secondary market or to student loans.

(B) Housing Finance Agency.

Housing Finance Agency staff, Industrial Commission members, their staff who work with Housing Finance Agency matters, their Immediate Families, or any Business or Person in which they have a Private Interest or with which they are Associated, may obtain loans from the Housing Finance Agency. The loan shall involve no preferential treatment with respect to interest rates, maturity, terms, amortization requirements, or the quality and amount of collateral pledged. The proposed liability of a loan to an executive officer of the Housing Finance Agency or to an Industrial Commission member, or a member of the Immediate Family of either, may not exceed \$25,000 unless the loan is approved by an unanimous vote of the Housing Finance Agency Advisory Board and the Industrial Commission. Any Employee subject to this provision may not be involved in any decision regarding the loan on behalf of the Housing Finance Agency. The Employee may only be involved in the loan on his or her own behalf if the loan is to the Employee.

SECTION IX: EMPLOYMENT ISSUES

(A) Actions taken while negotiating for employment:

An Employee who is discussing rendering services for Compensation with a Business or Person may not act or fail to act in a matter of Commission business affecting that Business or Person.

(B) **Disclosure of relationship with former employers:**

An Employee shall disclose to the Commission if the Employee was previously employed by any Business or Person seeking action from the Commission or the Employee's agency.

(C) **Post-Employment restrictions:**

An Employee may not, for a period of one year following the termination of the Employee's status as an Employee, represent any Business or Person in a matter of Commission business involving the agency or program of the former Employee or, in the case of a Commission member, involving the Commission or any agency or program managed, controlled or overseen by the Commission. An exception to this prohibition may be granted by the Commission if it has been demonstrated that such an exception is for good cause or that the prohibition would cause undue hardship.

(D) **Nepotism**

(1) An Employee may not advocate, participate in an action relating to, or cause the employment, appointment, promotion, transfer, or advancement to an office or position in the agency of a Family Member of the Employee.

(2) An Employee may not participate in an action relating to the employment or discipline of a Family Member of the Employee.

(3) An Employee may not supervise or manage a Family Member.

(E) **Outside Employment**

For the purposes of this Section the term "Outside Employment" means any gainful employment other than the performance of functions and duties related to an Employee's status as an Employee, and includes employment by, or the management or operation of, a Business or Person.

(1) An Employee may not engage in employment outside of his or her employment with a Commission agency if such Outside Employment interferes with the proper and complete discharge of the Employee's responsibilities and duties to a Commission agency.

(2) An Employee who is contemplating Outside Employment (including consulting work) must seek the written approval of the director of the employing Commission agency to determine whether such Outside Employment presents a conflict of interest or the appearance thereof, or interferes with the Employee's responsibilities and duties to the Commission agency. If the agency director does give his/her written approval, that approval shall be placed in the Employee's file or otherwise recorded.

SECTION X: PENALTIES

In appropriate circumstances and in compliance with applicable procedures, the Industrial Commission may order any one or more of the following actions if it determines this Code of Ethics has been violated:

- (A) Cease and desist from the activity which is in violation of this Code of Ethics.
- (B) Forfeit the prohibited contribution to the state general fund.
- (C) Return the prohibited contribution to the contributor.
- (D) Debar any Business or Person from participating in programs of, receiving any benefits from, or contracting with, the Commission or any of its agencies.
- (E) Publicly disclose the violation.
- (F) Restrict an Employee's duties with regard to a particular agency or a particular activity.
- (G) Relieve an Employee of duties pertaining to the Commission or any of its agencies.
- (H) Impose corrective or disciplinary action including oral or written warnings, placement of an Employee on a special review period or recommend to the director of the appropriate agency that they consider the imposition of a suspension with pay, demotion, termination.

SECTION XI: ADVISORY BOARDS, COMMITTEES

Members of the Bank of North Dakota Advisory Board, Housing Finance Agency Advisory Board, SLND Advisory Board, and Municipal Bond Bank Advisory Committee (hereinafter "Members") who have a Private Interest in any Business or Person which has a matter before the Member's board or committee shall disclose that fact to the Commission. Members who serve as an employee, officer, director or in any other representative capacity for any Business or Person which has a matter before the Member's board or committee, shall disclose that fact to the Commission. No Member may participate, either directly or indirectly, in any decision of their board or committee for which disclosure is required under this section. If there is a violation of this section, the Commission may remove or request the resignation of the Member involved.

SECTION XII: EXCEPTION PROVISION

The Commission may make exceptions to this Code of Ethics if the exception is approved at a non-confidential meeting of the Commission.

ADDENDA TO THIS CODE OF ETHICS

Pertinent North Dakota Century Code statutes dealing with conflicts of interests/ethics

Pertinent North Dakota Century Code statutes dealing with confidential records (Agency specific)

North Dakota Century Code Chapter 16.1-08 regarding political contributions