

North Dakota Ethics Commission Regular Meeting

Minutes of March 15, 2023

MS Teams

1. **Call to Order:** The meeting was called to order by Chairman Paul Richard at 9:00 a.m. The following members of the Ethics Commission were also present: Vice Chair David Anderson, Commissioners Ron Goodman, Ward Koeser, and Cynthia Lindquist, as well as Legal Counsel Allyson Hicks, Executive Director Rebecca Binstock, and Office Manager Holly Gaugler.
2. **Approval of Agenda:** No additions were made.
3. **Approval of Minutes:** The Commission discussed meeting minutes from January 6, January 20, February 14, and February 16, 2023, with no changes made.

Motion: Commissioner Anderson moved to approve meeting minutes from January 6, January 20, February 14 and February 16, 2023, with no changes. Motion was seconded by Commissioner Koeser. Chair Richard called for a voice vote. The motion was approved by unanimous voice vote.

4. **Budget Update:** Office Manager Holly Gaugler provided a budget update as of February 28, 2023, showing total expenses for February 2023 at \$26,431 and total expenditures for the biennium of \$492,516 - leaving a balance for the remainder of the biennium at \$131,468. She noted that there were SAAG costs of \$3,369 included in the update for February 2023. Gaugler briefed the Commission on projected expenditures for the remainder of the biennium of \$137,764 which now includes software for on-line form submission at \$8,263 but does not include conference room video equipment leaving a remaining balance on June 30, 2023, of \$4,624. The ending balance of \$4,624 is assuming the Commission receives the deficiency appropriation in SB 2025 of \$97,000 which includes \$72,000 for SAAG costs and \$25,000 for new office space remodeling. Gaugler added that the conference video equipment, estimated at \$6,910, would hopefully be purchased with funding left in the "investigation costs" and "travel costs" lines.
5. **Executive Director Update:**
 - Executive Director Binstock updated the Commission on moving the Ethics Commission's office to the third floor of the J Wing of the capitol. She, along with Gaugler, met with John Boyle and Tom Job on February 28 and discussed square

footage and wall configurations. Tom Job provided drawings that included a conference/training room along with an open-concept work area.

Mr. Job provided pricing on March 13 for remodeling at an estimate of \$28,921. She noted that this did not include IT equipment or furniture for the conference room. The state contract holder for video IT equipment, AVI, provided an estimate of \$6,910.

Job indicated that the work would take a few weeks to complete which should allow staff to move in the later-part of June. DHHS employees will be vacating the space in early May.

Motion: Commissioner Koeser moved to approve the proposed office space renovation and video equipment purchase contingent upon deficiency funding of \$97,000 from the legislature for 2021-2023 biennium in SB 2025. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

- Executive Director Binstock briefed the Commission on the on-line forms submission software. NDIT has provided an estimate of \$8,263 for the software and a monthly maintenance cost of approximately \$30 per month. NDIT has estimated a one to two months completion time.

Motion: Commissioner Goodman moved to approve the purchase of the on-line forms submission software contingent upon funding of \$97,000 for 2021-2023 biennium in SB 2025. Motion was seconded by Commissioner Lindquist. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

- Executive Director Binstock discussed the education and outreach calendar, noting that this month she had focused on speaking with legislators, legislative staff, public officials, and lobbyists. Discussions focused on feedback on rules, meeting notices, and education. She also provided training for the Governor's cabinet and next week will be speaking at the Big Muddy Bar Association.

- Executive Director Binstock discussed four legislative bills that the Commission is currently watching.

SB 2024: SB 2024 passed the Senate and has crossed over to the House. The Senate version provided everything with the exception of the Education FTE and provided \$100,000 in place of the FTE. The initial hearing on SB 2024 in the House is set before the House Appropriation – Government Operations Division and is scheduled for Thursday, March 16, 2023, at 2:15 PM. Executive Director Binstock will present testimony.

SB 2025: This is OMB's Deficiency bill which contains the Ethics Commission's request for \$97,000 in deficiency funds to cover SAAG costs and relocation expenses. A hearing on the bill was held before the House Appropriations Committee on March 13, 2023. Joe Morrisette, Director of OMB, provided testimony regarding the bill. Executive Director Binstock also submitted written testimony and testified for the purpose of requesting an amendment to authorize the \$97,000 to be carried-over to the 2023-2025 biennium.

SB 2048: A hearing on SB 2048 was held before the House Government and Veteran Affairs on March 9, 2023. Executive Director Binstock and General Counsel Hicks testified in support of the bill. Committee work on SB 2048 was done late in the day on March 9, 2023. There was a motion for a do not pass recommendation made. No discussion followed. The motion passed by a 6-4-3 vote and was set for a floor vote on March 13, 2023. After discussions with the committee members, the bill was removed from the calendar at the start of the floor session on March 13 and went back to committee for further work and consideration. Executive Director Binstock and General Counsel Hicks discussed that there was some indication the bill may be split to eliminate the inclusion of executive branch employees from the timing of responding to complaints as well as the section that expands the definition of the term "complainant" to include individuals subject to the jurisdiction of a North Dakota board or commission regardless of state residency. Ethics Commission staff will continue to work with the committee members on the bill.

Motion: Commissioner Koeser moved to give Executive Director Binstock and General Counsel Allyson Hicks the authority to allow changes to SB 2048 that eliminates the expansion to executive branch employees, the quasi-judicial section allowing non-state licensees to file a complaint, and the section regarding the timeline the Commission processes and evaluates complaints. Motion was seconded by Vice-Chair Anderson. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

SB 1485: SB 1485 passed on the House floor on February 21, 2023, with substantial amendments from the introduced version. The engrossed version essentially requires the legislature to enact a conflict of interest rule that is at least as restrictive as the Ethics Commission's conflict of interest rule. SB 1485 has been assigned to the Senate State and Local Committee. A hearing on the bill has not been set. The Legislative Council has added a "conflicts of interest" tab on their website to comply with SB 1485. Executive Director recommended the Ethics Commission maintain a neutral position on the bill as it passes through the Senate which was agreed upon by the Commission. If the bill is amended in a way which requires the Ethics Commission's stance to change, the Commission will address the issue at that time.

- Executive Director Binstock briefed the Commission on proposed changes to the Commission's policies and procedures to include the annual signing of the internal Code of Ethics by Commissioners and staff. The practice was adopted during an early meeting of the Commission. Executive Director Binstock recommended this practice be added to the Ethics Commission's policies and procedures.

Motion: Commissioner Lindquist moved to approve inclusion of an annual review of Internal Code of Ethics by Commissioners and staff in the Ethics Commission's Policies and Procedures. Motion was seconded by Commissioner Goodman. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

- Executive Director Binstock discussed the Commission's current meeting notice form which had been approved during the Commission's December 21, 2023 regular meeting. Executive Director Binstock asked that the Commission approve and adopt the new instructions for the form to provide further guidance and explain the form. The form will continue to be reviewed by staff; however, the proposed instructions should help the users to more clearly understand the information being requested. Vice Chair Anderson recommended that the word "attending" be added to the instruction line: "Number of Projected Attendees who are Registered Lobbyists – Total projected lobbyists that are registered as a lobbyist with the North Dakota Secretary of State under N.D.C.C. § 54-05.1-03."

Motion: Vice Chair Anderson moved to adopt the meeting notice form instructions as amended and to authorize Executive Director Binstock to publish on the Ethics Commission's website. Motion was seconded by Commissioner Koeser. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

6. **Executive Session:** The Commission entered executive session at 10:05 a.m. to discuss Complaint Nos. 22-013 and 23-001 under the authority of N.D.C.C. Sections 54-66-12(1), 54-66-12(3), and 44-04-19.2(1) – 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, Commissioner Ron Goodman, Commissioner Cynthia Lindquist, Commissioner Ward Koeser, General Counsel Allyson Hicks, Executive Director Rebecca Binstock, and Office Manager Holly Gaugler. Executive Session ended at 10:29 a.m. and all participants returned to the regular meeting. During Executive Session, the Commission discussed Complaint Nos. 22-013 and 23-001. No action was taken by the Commission on Complaint Nos. 22-013. After discussion of Complaint No. 23-001, action was taken in open session and the following motion was made:

Motion: Commissioner Goodman moved to dismiss Complaint #23-001 based on lack of personal jurisdiction of the respondent to the complaint. Motion was seconded by Commissioner Koeser. Chair Richard called for a roll call vote. The motion was approved by unanimous roll call vote.

7. **Adjourn:** Commission, having no further business, was adjourned at 10:40 a.m. The next regular meeting is scheduled for April 26, 2023, at 9:00 a.m.

Approved on 4/28/23 

Rebecca Binstock, Executive Director, North Dakota Ethics Commission