



North Dakota Ethics Commission Special Meeting

Minutes of January 13, 2025

MS Teams

1. **Call to Order:** The meeting was called to order by Chair Dave Anderson at 10:31 a.m. The following members of the Ethics Commission were also present: Vice Chair Ward Koeser, Commissioners Cynthia Lindquist, Ron Goodman, and Murray Sagsveen, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, and Operations Administrator Alisha Maier.
2. **Approval of Minutes:** The Commission discussed regular meeting minutes from December 18, 2024.

**Motion:** Commissioner Lindquist moved to approve regular meeting minutes from December 18, 2024. Motion was seconded by Commissioner Goodman. Chair Anderson called for a voice vote. The motion was approved by unanimous voice vote.

3. **Discussion of Legislation: Advisory Opinions, Lobbying by Public Officials, Enforcement Action Process, Financial Disclosure Statements, Prohibited Actions Provision, and Legislation Impacting Ethics Commission:** ED Binstock provided an updated on the Commission's legislative proposals.

**Advisory Opinions & Lobbying by Public Officials:**

The Commission pre-filed HB 1046 and SB 2052 and committee hearings were held last week.

HB 1046 is the Commission's advisory opinion bill. It would allow the Commission to initiate an advisory opinion upon a majority vote of the entire Commission. It also puts internal practices and procedures into statute.

The House Judiciary Committee held a hearing on January 8th. At the hearing, committee members expressed disfavor that the bill was pre-filed by the Commission and not by a legislator. Members also expressed dislike for the idea of the Commission having more authority to initiate advisory opinions on its own. The committee later approved an amendment to the bill requiring 4 of the 5 commissioners to agree to initiate an advisory opinion. Later, a "do pass" recommendation failed by 2-12. A "do not pass" recommendation was approved by 13-1. The bill has not come to the House floor for a vote yet.

SB 2052 is the Commission's pre-filed bill to clarify the caption of N.D.C.C. § 54-66-13 to add the word "elected." The bill clarifies the restriction on lobbying while in office and after a term of service for elected public officials.

The Senate Judiciary Committee held a hearing on January 8th. The committee had one piece of opposition testimony that contended that the statute and the constitutional provision were unconstitutional in the sense that they violated the federal constitution. However, this is based upon an Eighth Circuit case regarding a constitutional amendment in the Missouri Constitution. This is similar but not identical to the ND lobbying moratorium. Executive Director Binstock explained the differences to the committee at the hearing. The committee unanimously approved a "do pass" recommendation on the bill. The bill has not come to the Senate floor for a vote yet.

**Motion:** Vice Chair Koeser moved to authorize Commission staff to work with a legislator or group of legislators to reintroduce HB 1046 as a legislator-introduced bill. Motion was seconded by Commissioner Lindquist. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

**Enforcement Action Process:**

Commission staff revised the proposed legislative language for the enforcement action process and put it into bill format. Based upon feedback received from legislators, Commission staff recommend the Commission remove the language clarifying a subpoena process for the Commission. Commission staff believe this change will assist in the success of the legislation.

Commissioners were provided with a draft copy of the bill and General Counsel Carpenter walked through the revised changes.

**Motion:** Commissioner Goodman moved to authorize Commission staff to work with a legislator or group of legislators to introduce the revised enforcement action proposal as a bill and support it once introduced. Motion was seconded by Commissioner Sagsveen. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

**Financial Disclosure Statements/Statements of Interest:**

Commission staff continues to work with the Secretary of State's Office staff to finalize proposed legislation for financial disclosure statements/statements of interest.

**Prohibited Actions Provisions:**

At the November 20, 2024, meeting, the Commission discussed proposed language related to prohibited actions. The Commission determined a bill related to this proposed legislation would not be introduced by the Commission and staff did not pre-file a bill.

After conducting additional research on this issue, Commission staff believe the goals sought out by the proposal can be done through Commission rule after legislative session. Commission staff recommend the Commission revisit this issue in the form of a rule, rather than legislation, later this year.

### **Legislation Impacting Ethics Commission:**

HB 1141 was filed and impacts the duties of the Ethics Commission. In summary it:

- Adds a section to Chapter 16.1-10-02 that precludes state agencies and political subdivisions from using public funds to be a member of, contribute to, or endorse a private organization that has endorsed a candidate or publicly supported/opposed a ballot measure.
- Allows an individual alleging a violation of 16.1-10-02 to file a complaint with the Ethics Commission.
- Requires the Ethics Commission to refer complaints for criminal prosecution.
- Outlines a procedure if a state's attorney refuses to prosecute that the Commission shall refer the matter to the Attorney General if authorized by a majority vote of the Commissioners.
  - If the Commission authorizes the Attorney General to prosecute, the Attorney General files the action in the Supreme court and it exercises original jurisdiction and holds the trial there.

Commission staff has reached out to the Attorney General's Office to provide some clarity to the committee on what this process would look like.

The Commission further discussed the bill and agreed to maintain a neutral position.

4. **Education, Outreach, and Communications Update:** ED Binstock provided an update on education, outreach, and communications.

### **Legislative Training for Newly Elected Officials and Cabinet Members**

The training schedules for newly elected officials and cabinet members were canceled due to the low number of cabinet members who are new to state government as well as ED Binstock being out for an unexpected family funeral. ED Binstock and GC Carpenter met with General Counsel for the Governor to discuss how best the Ethics Commission can assist and support the Governor and his team as they start their new terms of service. Due to the busyness of legislative session, an in-person training will be set for a time after legislative session. Commission staff provided resources to the Governor's General Counsel to share with cabinet members in the meantime.

### **Legislative Conflict of Interest Education**

The legislature is working through proposed amendments to its conflict-of-interest rules. After conversations with legislators, Commission staff believe a “script” to help legislators declare potential conflicts of interest would be helpful during session. Commission staff recommend working with legislative council to ensure the proper procedures are followed to develop a script to aid legislators through the process.

**Motion:** Commissioner Lindquist moved to authorize Commission staff to work with legislative council to develop a guide for legislators to follow when declaring potential conflicts of interest. Motion was seconded by Vice Chair Koeser. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

5. **Discussion of Hearing Process for Complaints:** GC Carpenter provided an update on the hearing process for complaints.

At the Commission’s December meeting, the Commission discussed providing additional notice and information of what is expected during the Commission’s hearing following a complaint investigation. Some of the information is outlined in statute and in the Commissions rule, but not all of it. Commission staff worked with Commissioner Sagsveen to develop a process to convey this information to respondents. Commissioners were provided with three documents that Commission staff propose to use. GC Carpenter provided an overview of the documents.

**Motion:** Commissioner Sagsveen moved to authorize Commission staff and the chair to use the three documents or substantively similar as discussed for the Commission’s hearing process. Motion was seconded by Commissioner Goodman. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

6. **Executive Session:** The Commission entered executive session during the general meeting at 11:37 a.m. to discuss Complaint Nos. 23-014 and 24-040. Information regarding the content and parties to a complaint to the Ethics Commission is confidential. The following participants entered the executive session: Chair Dave Anderson, Vice Chair Koeser, Commissioners Ron Goodman, Cynthia Lindquist, and Murray Sagsveen, Executive Director Rebecca Binstock, General Counsel Logan Carpenter, Operations Administrator Alisha Maier, and Legal Intern Patrick Frise.

Executive Session ended at 11:59 a.m. and all participants returned to the regular meeting.

During the Executive Session, the Commission discussed Complaint Nos. 23-014, and 24-040.

After Executive session, the following motion was made:

**Motion:** Vice Chair Koeser moved to direct Executive Director Binstock to summarily dismiss Complaint No. 24-040 for a lack of subject-matter jurisdiction. Motion was seconded by Commissioner Goodman. Chair Anderson called for a roll call vote. The motion was approved by unanimous roll call vote.

7. **Adjourn:** The meeting was adjourned at 12:01 p.m. The next regular meeting is scheduled for January 22, 2025, at 9:00 a.m., livestreamed with MS Teams.

Approved on 1/22/25



Rebecca Binstock, Executive Director, North Dakota Ethics Commission