

# Lobbyist Learning Session



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# Agenda



- 01 Article XIV
- 02 Lobbyist Gifts
- 03 Campaign Contributions
- 04 Lobbying Moratorium

# A Constitutional Amendment

2018 General Election

Established state ethics commission in  
Article XIV of the North Dakota  
Constitution

Commission has authority over  
transparency, corruption, elections, and  
lobbying



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# Constitutional Authority



Ethics Commission authority - transparency, corruption, elections, and lobbying

Attorney General Opinion 2020-L-09

Read rules in harmony when reasonable and workable.

**Conflict with other ethics rules?**  
Ethics Commission rules prevail.

*City of Fargo v. Ruether*, 490 N.W.2d 481 (N.D. 1992).

# Rulemaking Process

Ethics Commission ≠ Administrative Agency

Administrative Agencies Practice Act  
includes the Ethics Commission for specific sections

“Agency” and “commission”

Proposed Rule → Notice → Comments and Hearing  
→ Respond to Comments → Final Approval →  
Publication



# New Rules



The Complaint Process

Lobbyist Gifts

Appearance of Bias

Conflicts of Interest

Financial and Travel Disclosure?

# Lobbyist Gifts Prohibited

## Article XIV

“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 = thing of value not given in exchange for fair market consideration



SHSND 00056

Governor Sinner 1989

# Who is a Lobbyist?



Exclusions:

legislators, private citizens appearing on own behalf, government employees, individual invited to provide info, and business representatives introduced by a lobbyist

Statutory Definition - focused on legislative process

Ethics Commission gifting definition - expands to executive branch lobbying



# Public or Private Events



SHSND 00005

Party at the Hotel McKenzie Dining Room  
1910

Public social and educational event  
or  
Private social and educational event

Exceptions to the lobbyist gift prohibition largely focus on providing food for immediate consumption only.

Need:

- (1) educational component
- (2) person who is not a lobbyist or a public official
- (3) notice filed with the Ethics Commission

# Event Notice



Electronic form available online  
[ethicscommission.nd.gov](http://ethicscommission.nd.gov)  
Forms Tab > Meeting Notices

Preferably submitted a week in advance

The Ethics Commission does NOT approve events.

Please request an advisory opinion in advance if  
you would like the Ethics Commission's review.

# Informal Events



SHSND 00732

Legislators on a Coffee Break  
1959

Informal social and educational events allowed

Food or beverage for immediate consumption

\$10 limit, excluding gratuity

Lobbyist can purchase \$10 food and drink item(s)

# Additional Exceptions

- (1) A gift by a lobbyist who is a member of the public official's immediate family
- (2) Any item where the public official pays fair market value
- (3) Purely informational material
- (4) A campaign contribution



# Gifting Recap



## Best Practices

- (1) do not put approved on advertising/invites
- (2) attach documentation to notice form for evidence of educational component
- (3) provide a presentation with accompanying educational materials
- (4) file notice at least a week in advance

# Campaign Contributions

Article XIV, § 2(3) prohibits lobbyists from delivering campaign contributions made by others.

1st violation = civil penalty of \$500

subsequent violation = class B misdemeanor and secretary of state may revoke lobbyist's registration

I PROMISE TO GIVE TO THE  
NORTH DAKOTA SUFFRAGE CAMPAIGN  
\_\_\_\_\_ PER MONTH DURING 1917,  
TO BE PAID ON THE \_\_\_\_\_ OF EACH MONTH,  
OR A LUMP SUM OF \_\_\_\_\_ DOLLARS,  
PAYABLE \_\_\_\_\_ 191\_\_\_\_  
NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

SHSND Women's Suffrage-00001

# Lobbying Moratorium

Article XIV, § 2(2) prohibits elected public officials from lobbying while holding office and two years after

violation = class A misdemeanor

civil penalty = up to \$1000

applies only to **elected** public officials



*Two-Year Moratorium*

# Questions?







Thank  
you!

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or

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