

ENGROSSED HB 1024
TESTIMONY OF DAVE THIELE
EXECUTIVE DIRECTOR, NORTH DAKOTA ETHICS COMMISSION
BEFORE THE
SENATE APPROPRIATIONS
March 23, 2021

Agency Update

The Ethics Commission was created pursuant to Article XIV of the North Dakota Constitution which became effective January 5, 2019. On August 8, 2019, five Commission members were appointed by the Governor and Senate Majority/Minority leaders: Ron Goodman (Bismarck), Chair; Dr. Cynthia Lindquist (St. Michael), Vice-Chair; Paul Richard (Fargo), Secretary; Ward Koeser (Williston); and David Anderson (Bismarck) with appointments effective September 1, 2019.

To date, the Commission has: obtained office space and furniture; hired myself and Office Manager, Holly Gaugler; held 13 public meetings; created and adopted rules relating to the complaint process and gifts between public officials and lobbyists; created a public website <https://www.ethicscommission.nd.gov>; and adopted a mission statement and an internal Code of Ethics. I have presented seven training and educational sessions with various groups and participated on behalf of the Commission in the Interim Judiciary Committee review of Ethics Commission issues. There have been eleven complaints filed with all dismissed.

The complaint rules and gift rules have been carefully created and adopted to ensure the Commission follows the intent and the constitutional mandate set forth in Article XIV of

the Constitution and N.D.C.C. §54-66. The Commission will continue to propose and adopt rules relating to transparency, corruption, elections, and lobbying.

As citizens, public officials and lobbyists become more familiar with the Commission activities, we have received a significant number of requests for guidance to ensure compliance with Article XIV, N.D.C.C .54-66 and our rules. The Commission is committed to properly addressing citizen concerns in a manner that educates and corrects. The Commission has worked to create an environment that is not a “gotcha” entity, but instead focuses on identifying the problem, fixing the problem and then educate so others don’t make the same mistake.

Current Budget Status (Attachment #2)

The 2019-21 biennial budget for the Ethics Commission is \$517,155 in general funds with no one-time funding. As of February 28, 2021, we have spent \$343,295 with a remaining balance of \$173,860. We have attached a current budget update as of February 28, 2021, (Attachment #2).

Our current budget includes five commission members and two FTE’s to include myself as the Executive Director. The full-time salaries line includes five commissioners as well as the executive director. I was hired in January 2020 and being uncertain of the required workload in April of 2020, we hired a temporary part-time office manager, Holly Gaugler.

The Commission saved approximately \$168,000 this biennium due to delayed hiring and related savings in office costs. This saving also includes approximately \$21,000 in reduced travel costs due to COVID-19 restrictions. We are estimating a general fund turn-back of

approximately \$75,000. The Commission did not receive special or federal funding and we did not receive COVID-19 federal funding.

There were questions raised in the House regarding our budget. Commissioner Paul Richard will discuss staff salaries and requirements. The Constitution in Article XIV mandates the Legislature “adequately fund” the Ethics Commission. The Commission has aggressively reviewed costs to minimize impact to the state budget. As a comparison the Montana Commissioner of Political Practices has a budget of \$751,000 for FY 2021. New Mexico is a good “apples to apples” comparison in that they, like the North Dakota Ethics Commission, were created in 2018 by a constitutional amendment. The New Mexico Ethics Commission has a full-time staff of 6 which includes an Executive Director who is a lawyer and two additional lawyers. Their budget for FY 2021 is \$946,200 and they plan on hiring two additional staff in 2022. That is in comparison to our request of \$642,005 for the biennium or \$321,000 per year. We believe that demonstrates that we are being good stewards of our state resources and we will continue to aggressively monitor costs and strive for savings where appropriate while ensuring we have the resources and staff necessary to accomplish our mission.

2021-23 Budget Request (Attachment #3)

The Ethics Commission closely analyzed its current operating requirements and submitted the 2021-23 budget request at \$642,005. This is an increase of \$124,850 from the 2019-21 base budget of \$517,155 to fund salaries and minimal operating costs for 24 months.

The 2021-23 budget request submitted by the Commission funds one FTE (Executive Director), one part-time temporary employee and five commissioners for a total \$475,989. The vacant administrative FTE is retained in our budget request but is not funded.

Operating costs consist of office rent (\$52,416); NDIT costs (\$38,900); estimated travel costs (\$37,600); investigative costs (\$20,000); rules notice advertising (\$10,000); and other miscellaneous operating costs (\$7,100) for a total of \$166,016. We did not request one-time funding.

The Governor's recommendation of \$653,674 includes a total increase of \$136,519 to the base budget which fully funds salaries and benefits at \$487,705 with a recommended 2% increase each year of the biennium for the executive director position. The vacant unfunded FTE was also retained in the Governor's recommendation. The executive recommendation also provides \$165,969 in operational costs with \$50,000 of that amount in contingency costs. This contingency was part of the appropriated operating costs due to the uncertainty of overall costs for a full biennium.

In summary, the Governor' recommended budget of \$653,674 was \$11,669 higher than the Ethics Commission request of \$642,005. The Governor's budget included an increase of \$11,716 for the 2% salary increase and benefits for both years of the biennium and a net reduction of \$47 in operating expenses but includes Microsoft Office 365 license increase of \$661.

House Amendment (Attachment #4)

The House reduced the 2019-21 base budget of \$517,155 by 5% to \$491,297. The House also added salary and benefit increases for \$7,257 and Microsoft Office 365 license increase of \$661 for a total amended appropriation of \$499,215 which is \$17,940 less than our current 2019-21 funding. The vacant unfunded FTE was also removed by the House.

If salaries are fully funded at \$483,246, the decrease of \$17,940 of the current base budget of \$517,155 to \$499,215, would leave \$15,969 in operating costs creating an operating shortfall of \$150,708.

Mr. Chairman, that concludes my testimony and I will gladly stand for any questions you may have.

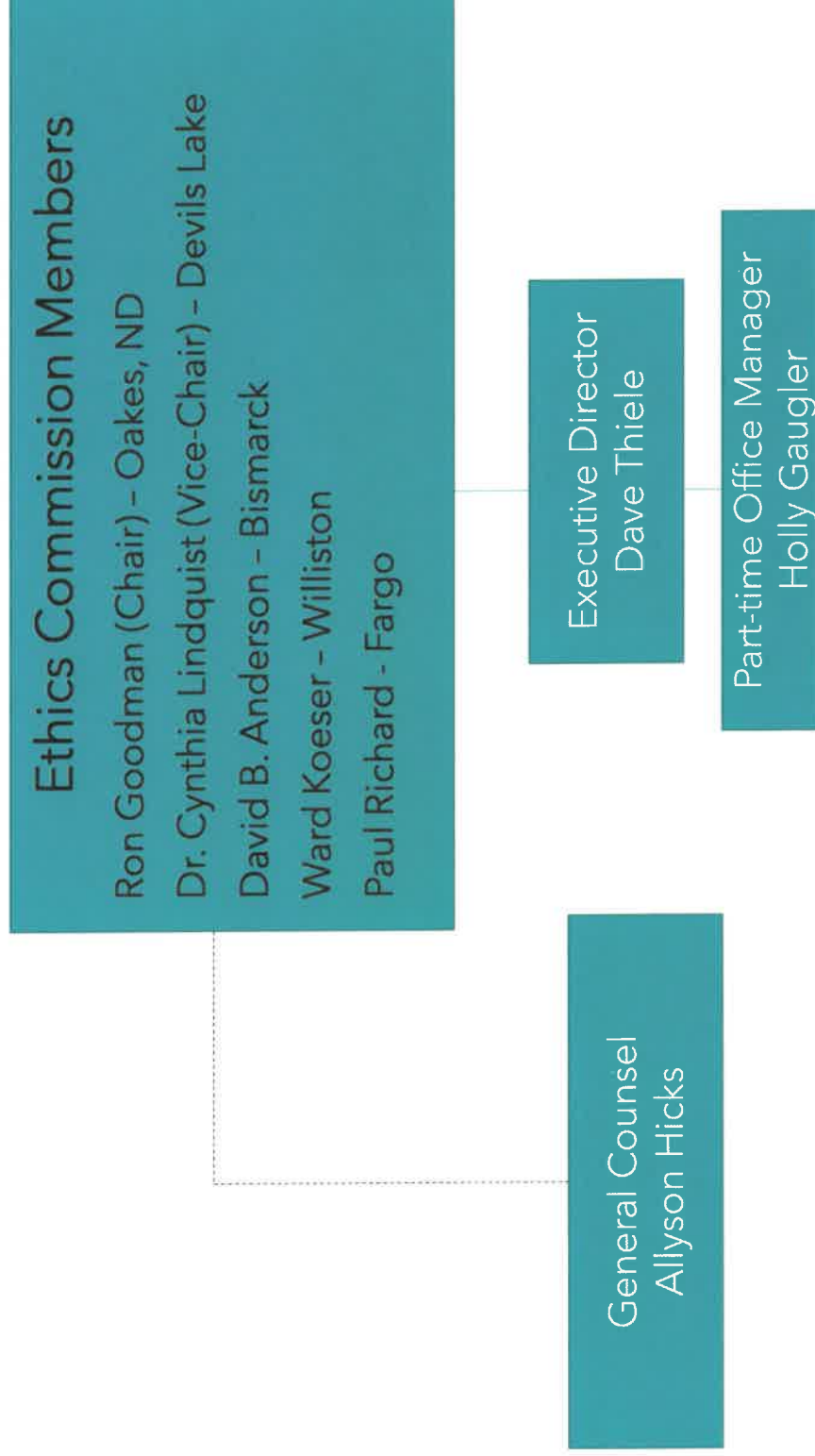
Attachments

1. Organization chart
2. Budget status as of February 28, 2021
3. Governor's budget comparison
4. House amendments

North Dakota Ethics Commission

Organization chart

ATTACHMENT #1



ND Ethics Commission
2019-21 Budget Status as of February 28, 2021

SUMMARIZED

<u>Decription</u>	<u>2019-21 Base Budget</u>	<u>Expenditures as of February 28, 2021</u>	<u>Remaining Balance</u>
Salaries and Benefits	\$ 352,000.00	\$ 246,090.00	\$ 105,910.00
Operating Expenses	\$ 165,155.00	\$ 97,205.00	\$ 67,950.00
Total General Funds	\$ 517,155.00	\$ 343,295.00	\$ 173,860.00

DETAIL

<u>Decription</u>	<u>Code</u>	<u>2019-21 Base Budget</u>	<u>Expenditures as of February 28, 2021</u>	<u>Remaining Balance</u>
Salaries and Benefits				
Salaries - Permanent	511000	\$ 241,000.00	\$ 168,609.00	\$ 72,391.00
Temporary Salaries	513000	\$ 54,000.00	\$ 32,406.00	\$ 21,594.00
Fringe Benefits	516000	\$ 57,000.00	\$ 45,075.00	\$ 11,925.00
		\$ 352,000.00	\$ 246,090.00	\$ 105,910.00
Operating Expenses				
Travel	521000	\$ 24,000.00	\$ 10,886.00	\$ 13,114.00
Miscellaneous Supplies	535000	\$ 1,000.00	\$ 390.00	\$ 610.00
Office Supplies	536000	\$ 3,500.00	\$ 1,172.00	\$ 2,328.00
Printing	542000	\$ 500.00	\$ 68.00	\$ 432.00
Office Equip & Furn Supplies	553000	\$ 14,999.00	\$ 14,622.00	\$ 377.00
Rentals/Leases-Equip & Other	581000	\$ 2,300.00	\$ 1,626.00	\$ 674.00
Rentals/Leases - Bldg/Land	582000	\$ 39,612.00	\$ 30,876.00	\$ 8,736.00
IT - Data Processing	601000	\$ 40,000.00	\$ 30,173.00	\$ 9,827.00
IT - Communications	602000	\$ 1,500.00	\$ 1,066.00	\$ 434.00
Professional Development	611000	\$ 6,000.00	\$ 1,935.00	\$ 4,065.00
Operating Fees and Services	621000	\$ 11,744.00	\$ 4,211.00	\$ 7,533.00
Fees - Professional Services	623000	\$ 20,000.00	\$ 180.00	\$ 19,820.00
		\$ 165,155.00	\$ 97,205.00	\$ 67,950.00
Total General Funds		\$ 517,155.00	\$ 343,295.00	\$ 173,860.00

TOTAL AUTHORIZED FTE's

2

2021-23 Budget - Agency Request & Recommendation

SUMMARIZED

	2019-21 <u>Base Budget</u>	Agency 2021-23 <u>Total Budget Request</u>	2021-23 Governor's <u>Recommendation</u>	Governor's <u>Recommendation Change Amount</u>
Salaries and Benefits	\$ 352,000.00	\$ 475,989.00	\$ 487,705.00	\$ 11,716.00
Operating Expenses	\$ 165,155.00	\$ 166,016.00	\$ 165,969.00	\$ (47.00)
Totals	\$ 517,155.00	\$ 642,005.00	\$ 653,674.00	\$ 11,669.00

DETAILED

	2019-21 <u>Base Budget</u>	Agency 2021-23 <u>Total Budget Request</u>	2021-23 Governor's <u>Recommendation *</u>	
Salaries and Benefits				
Salaries - Permanent	\$ 241,000.00	\$ 292,320.00	\$ 292,320.00	\$ -
Salary Increase	\$ -	\$ -	\$ 8,154.00	\$ 8,154.00
Benefit Increase	\$ -	\$ -	\$ 1,516.00	\$ 1,516.00
Health Increase	\$ -	\$ -	\$ 22.00	\$ 22.00
Retirement Increase	\$ -	\$ -	\$ 2,024.00	\$ 2,024.00
Temporary Salaries	\$ 54,000.00	\$ 102,960.00	\$ 102,960.00	\$ -
Fringe Benefits	\$ 57,000.00	\$ 80,709.00	\$ 80,709.00	\$ -
	\$ 352,000.00	\$ 475,989.00	\$ 487,705.00	\$ 11,716.00

*Governor's recommendation added \$11,716 which included \$9,670 for salary/benefit increases, \$22 for health insurance increases, and \$2,024 for retirement contribution increases.

	2019-21 <u>Base Budget</u>	Agency 2021-23 <u>Total Budget Request</u>	2021-23 Governor's <u>Recommendation **</u>	
Operating Expenses				
Travel	\$ 24,000.00	\$ 37,600.00	\$ -	\$ (37,600.00)
Miscellaneous Supplies	\$ 1,000.00	\$ -	\$ -	\$ -
Office Supplies	\$ 3,500.00	\$ 3,500.00	\$ 1,000.00	\$ (2,500.00)
Printing	\$ 500.00	\$ -	\$ -	\$ -
Office Equip & Furn Supplies	\$ 15,000.00	\$ -	\$ -	\$ -
Rentals/Leases-Equip & Other	\$ 2,300.00	\$ 3,600.00	\$ -	\$ (3,600.00)
Rentals/Leases - Bldg/Land	\$ 39,612.00	\$ 52,416.00	\$ -	\$ (52,416.00)
IT - Data Processing	\$ 40,000.00	\$ 36,000.00	\$ 4,969.00	\$ (31,031.00)
IT - Communications	\$ 1,500.00	\$ 2,900.00	\$ -	\$ (2,900.00)
Professional Development	\$ 6,000.00	\$ -	\$ -	\$ -
Operating Fees and Services	\$ 11,743.00	\$ 10,000.00	\$ 10,000.00	\$ -
Fees - Professional Services	\$ 20,000.00	\$ 20,000.00	\$ -	\$ (20,000.00)
Misc Expenses - Contingency	\$ -	\$ -	\$ 50,000.00	\$ 50,000.00
Operating Budget Adjustment	\$ -	\$ -	\$ 100,000.00	\$ 100,000.00
	\$ 165,155.00	\$ 166,016.00	\$ 165,969.00	\$ (47.00)
Totals	\$ 517,155.00	\$ 642,005.00	\$ 653,674.00	\$ 11,669.00
TOTAL AUTHORIZED FTE's	2	2	2	0

*Governor's recommendation for operating expenses was a net decrease of \$47 from agency budget request. The recommendation includes \$661 for MS 365 increases and as shown above, a \$50,000 contingency appropriation.

House Adjustments:

<u>2019-21</u>	<u>2019-21 Base</u>	<u>House Salary &</u>	<u>MS Office 365</u>	<u>Total</u>
<u>Base Budget</u>	<u>Reduced by 5%</u>	<u>Benefit Increases</u>	<u>Increases</u>	<u>House Funding</u>
\$ 517,155.00	\$ 491,297.00	\$ 7,257.00	\$ 661.00	\$ 499,215.00

House adjustments reduced the 2019-21 base budget by 5% - from \$517,155 to \$491,297; added salary increase of \$7,235 and \$22 health insurance increase for a total of \$7,257 along with MS Office 365 license increase for \$661. Total House funding in amended HB 1024 is \$499,215.

Funding Comparisons:

<u>2019-21</u>	<u>Agency 2021-23</u>	<u>2021-23 Governor's</u>	<u>House</u>	<u>House Comparison</u>
<u>Base Budget</u>	<u>Total Budget Request</u>	<u>Recommendation</u>	<u>Version</u>	<u>To Governor's</u>
				<u>Recommendation</u>
\$ 517,155.00	\$ 642,005.00	\$ 653,674.00	\$ 499,215.00	\$ (154,459.00)
FTE	2	2	2	1 (1)

House version reduced FTE count by one eliminating a vacant administrative FTE. This vacant FTE position is unfunded in the agency budget request and the Governor's recommendation. This position is currently filled with a temporary part-time administrative employee.

The House amendment creates an operational shortfall of \$150,708 with \$483,246 funding salaries and \$15,969 funding operations.