

North Dakota Ethics Commission
Senate Bill 2025
Testimony presented by
Executive Director, Rebecca Binstock
Before the House Appropriations Committee
March 13, 2023

Good morning, Mr. Chairman and Committee members, my name is Rebecca Binstock. I serve as the Executive Director of the North Dakota Ethics Commission.

Most recently, there has been an increase in the level of activity with the Ethics Commission:

- In 2022, there were 14 complaints filed with the Commission, compared to 9 complaints filed in 2021, 3 complaints in 2020, and 2 complaints in 2019. To date in 2023, the Commission has had two (2) complaints filed. The Commission has 11 pending complaints as of March 13, 2023.
- Meeting notice forms filed with the Commission exponentially increased near the end of 2022. To date, in 2023, we have had 55 meeting notices filed. The Commission anticipates level of activity will be sustained through the remainder of this biennium.
- With the adoption of gift rules, quasi-judicial bias rules, and conflict of interest rules, the Commission has increased education to those individuals subject to the rules. Part of this educational component includes providing guidance to other agencies, commissions, and boards on how to integrate policies and procedures with adopted rules.
- The Commission's activity statistics are attached (**Attachment No. 1**).

The 2021-23 biennial budget for the Ethics Commission is \$623,984 in general funds. As of January 31, 2023, the Commission has spent \$466,085 leaving a remaining balance for the biennium of \$157,899 (**Attachment No. 2**). The Commission projects the remaining \$157,899 will not cover projected expenditures of the biennium. The Commission is requesting a deficiency appropriation of \$97,000 to cover expenditures.

The increase in activity has led to significant budgetary challenges for the Commission:

1. An overall increase in temporary staff hours and an increase in special meetings.
2. The Commission anticipates a continual steady increase in activity and travel as additional rules are implemented and the Commission provides education to those impacted by rules.

3. The Ethics Commission had to hire a Special Assistant Attorney General (SAAG) in November of 2022 to address nine (9) complaints that have been filed with the Commission due to the recusal of the Office of the Attorney General.
4. Anticipation of remodel costs (to ensure separation from other agencies) for relocation of the office to the capitol in the Summer of 2023.

The Commission has worked to offset the increased costs in several ways:

- The Commission vacated its office space in November 2022, in hopes of finding a space within the capitol in the upcoming months.
- The Commission has continued to limit its in-person meetings and reduce travel.
- The Commission did not attend the annual COGEL (Council on Governmental Ethics Laws) conference.

With these off-sets, the Commission has been able to fund the cost of increased temporary staff hours and special meetings, along with other operational costs. However, the off-sets and savings the Commission was able to make (with an already lean budget) do not provide enough funding to cover the \$72,000 cost of hiring a SAAG for Complaints (as well as other investigation costs) through June 30, 2023, and \$25,000 in estimated office relocation costs.

In light of the above, the Ethics Commission is requesting a deficiency appropriation of \$97,000, which consists of \$72,000 in Special Assistant Attorney General ("SAAG") costs and \$25,000 in remodel costs.

Pursuant to N.D.C.C. § 54-66-14, the Office of the Attorney General is to provide legal services to the Commission. However, this past year, the Commission hired attorney Patricia Monson (Fargo) to serve as SAAG to advise the Commission as to Complaint Nos. 22-003 through 22-010 and 22-012, from which the Office of the Attorney General recused. The \$72,000 requested is based on a cost of \$9,000 per month for SAAG costs for the remainder of the biennium. This amount may also cover potential additional investigation costs. This estimate does not include any additional costs the Commission may incur if it needs to retain a SAAG for additional complaints during this biennium.

The Commission has estimated remodel costs of an office space within the capitol at \$75,000 to ensure secure access to the space and sufficient privacy, including NDIT line and equipment installation and furniture. This estimate is based on recently completed projects and estimates for similar projects as provided by John Boyle with OMB. However, the Commission is only requesting \$25,000 for a potential move-in date of June 1, 2023, with the remaining \$50,000 being covered by OMB's facilities improvement budget to be available July 1, 2023.

The Commission is also requesting an amendment to SB 2025 to carry over the \$97,000 as the Commission is unsure 100% of expenditures will be incurred for these two items by June 30, 2023. **(Attachment No. 3)**.

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

ND Ethics Commission - SB 2025

Level of Activity - Statistical Data

ATTACHMENT #1

Complaints Filed:

<u>Year</u>	<u>Number of Complaints</u>	
2019	2	
2020	3	
2021	9	
2022	14	(12 of 14 had been filed between Sept 1 and Dec 31, 2022)
2023	2	

Gift Rule Meeting Notices (Effective Oct 6, 2020):

<u>Year</u>	<u>Number of Meeting Notices</u>	
2019	0	
2020	0	
2021	52	
2022	130	(103 of 130 had been filed between Sept 1 and Dec 31, 2022)
2023	55	

Advisory Opinion Requests (Authorized Effective Aug 1, 2021):

<u>Year</u>	<u>Number of Advisory Opinion Req</u>	
2019	0	
2020	0	
2021	0	
2022	2	(Both requests were made after September 1, 2022)
2023	1	

Number of Special Meetings:

<u>Year</u>	<u>Number of Special Meetings</u>	
2019	2	
2020	0	
2021	0	
2022	5	(All five (5) were filed after September 1, 2022)
2023	5	

Number of Quasi-Judicial Disclosures:

<u>Year</u>	<u>Number of Quasi-Judicial Disclosures</u>	
2022	8	(All eight (8) were filed after September 1, 2022)
2023	4	

Number of General Conflict Disclosures:

<u>Year</u>	<u>Number of General Conflict Disclosures</u>
2022	0
2023	4

**ND Ethics Commission (Senate Bill 2025)
2021 - 23 Budget Status as of Januaruy 31, 2023**

ATTACHMENT #2

SUMMARIZED

	<u>2021-23 Base Budget</u>	<u>Expenditures as of January 31, 2023</u>	<u>Remaining Balance</u>
Salaries and Benefits	\$ 477,518.00	\$ 372,046.00	\$ 105,472.00
Operating Expenses	\$ 146,466.00	\$ 94,039.00	\$ 52,427.00
Total General Funds	\$ 623,984.00	\$ 466,085.00	\$ 157,899.00
TOTAL AUTHORIZED FTE's	1		

DETAIL

	<u>2021-23 Base Budget</u>	<u>Expenditures as of January 31, 2023</u>	<u>Remaining Balance</u>
Salaries and Benefits			
Salaries - Permanent	\$ 271,194.00	\$ 217,037.00	\$ 54,157.00
Salaries -Other (Commissioners)	\$ 32,700.00	\$ 30,324.00	\$ 2,376.00
Temporary Salaries	\$ 103,624.00	\$ 79,261.00	\$ 24,363.00
Fringe Benefits	\$ 70,000.00	\$ 45,424.00	\$ 24,576.00
	<u>\$ 477,518.00</u>	<u>\$ 372,046.00</u>	<u>\$ 105,472.00</u>
Operating Expenses			
Travel	\$ 16,302.00	\$ 3,096.00	\$ 13,206.00
Supply/Material - Professional	\$ 500.00	\$ 341.00	\$ 159.00
Miscellaneous Supplies	\$ 500.00	\$ 16.00	\$ 484.00
Office Supplies	\$ 2,500.00	\$ 553.00	\$ 1,947.00
Printing	\$ 200.00	\$ 88.00	\$ 112.00
IT Equipment under \$5,000	\$ 1,500.00	\$ 638.00	\$ 862.00
Insurance	\$ 250.00	\$ 194.00	\$ 56.00
Rentals/Leases-Equip & Other	\$ 3,552.00	\$ 2,660.00	\$ 892.00
Rentals/Leases - Bldg/Land	\$ 52,416.00	\$ 37,128.00	\$ 15,288.00
IT - Data Processing	\$ 33,026.00	\$ 25,309.00	\$ 7,717.00
IT - Communications	\$ 1,920.00	\$ 1,721.00	\$ 199.00
Professional Development	\$ 3,800.00	\$ 3,327.00	\$ 473.00
Operating Fees and Services	\$ 10,000.00	\$ 6,086.00	\$ 3,914.00
Fees - Professional Services	\$ 20,000.00	\$ 12,882.00	\$ 7,118.00
	<u>\$ 146,466.00</u>	<u>\$ 94,039.00</u>	<u>\$ 52,427.00</u>
Total General Funds	\$ 623,984.00	\$ 466,085.00	\$ 157,899.00
TOTAL AUTHORIZED FTE's	1		

ND Ethics Commission
Carry Over Amendment SB 2025

SECTION XX. EXEMPTION. Section 54-44.1-11 does not apply to the \$97,000 in section 1, subdivision 3 of 2023 SB 2025 and any unexpended funds must be continued into the biennium beginning July 1, 2023, and ending June 30, 2025, and may be expended only for the purpose of special assistant attorney general fees and relocation costs.