

North Dakota Ethics Commission
Senate Bill 2024
Testimony presented by
Executive Director, Rebecca Binstock
Before the Senate Appropriations – Human Services Division
January 20, 2023

Agency History

Good morning, Mr. Chairman and Committee members, my name is Rebecca Binstock. I serve as the Executive Director of the North Dakota Ethics Commission. I began my service with the Ethics Commission in September 2022, replacing then-Executive Director, Dave Thiele, who retired.

The Commission consists of five Commissioners who were appointed September 1, 2019:

- Chair Paul Richard (Fargo)
- Vice-Chair David Anderson (Bismarck)
- Ron Goodman (Oakes)
- Ward Koeser (Williston)
- Dr. Cynthia Lindquist (St. Michael)

The Commission staff consists of the Executive Director and a temporary staff member, Holly Gaugler, who serves as executive assistance and office manager. Pursuant to N.D.C.C. § 54-66-14, the Office of the Attorney General is to provide legal services to the Commission. Assistant Attorney General Allyson Hicks is the appointed legal advisor to the Commission. This past year, the Commission hired attorney Patricia Monson (Fargo) to serve as special assistance attorney general 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. We have attached our organizational chart (**Attachment No. 1**).

The North Dakota Ethics Commission was created in 2018 by passage of an initiated measure which created Article XIV of the North Dakota Constitution. The Commission is governed by Article XIV of the North Dakota Constitution and North Dakota Century Code Chapter 54-66.

Since its inception, the Commission has adopted complaint rules, gift rules, quasi-judicial proceeding rules, and conflict rules within the timelines outlined by Article XIV of the Constitution. The Commission continues to adopt rules to address transparency, corruption, elections, and lobbying as authorized by the Article XIV of the Constitution.

Agency Update

Over the past three (3) years, the Commission has made considerable progress in adopting rules. Moving forward, the Commissioner's mission includes both rule-making and educational outreach to address citizen, public official, and lobbyist concerns. To achieve our core mission, a considerable amount of our efforts during the remainder of the current biennium as well as the 2023-25 biennium will be directed towards a greater level of communication with all citizens of North Dakota. In an effort to educate citizens about the Ethics Commission, during my short tenure, I have met with lobbyists, North Dakota citizens, state legislators, state agencies, as well as state boards and commissions. We hope to increase this community educational outreach.

Also, the Ethics Commission has had a significant increase in activity, particularly since September 2022. The Commission's activity statistics are attached (**Attachment No. 2**).

Current Budget Status (Attachment No. 3)

The 2021-23 biennial budget for the Ethics Commission is \$623,984 in general funds, which does not include any one-time funding. The Commission is a general funded agency and does not receive federal or special funding. As of December 31, 2022, the Commission has spent \$440,234 with a remaining balance of \$183,750.

To date, the Commission had one audit - with no formal audit findings. A current budget update as of December 31, 2022, is attached (**Attachment No. 3**). Although the Commission's budget is a single budget line, there is a detailed listing of our expenditures included.

When considering the Commission's budget, I would like to direct you to a few points:

- Our current salary budget includes five commission members, one FTE for my position as the Executive Director, and a temporary office manager.
- Operating costs have changed in the most recent portion of the 2021-2023 biennium due to increasing levels of activity.
- The Ethics Commission is facing significant budgetary challenges this biennium as it had to hire a Special Assistant Attorney General (SAAG) in November of this

year to address several complaints that have been filed with the Commission due to the recusal of the Office of the Attorney General.

- The Commission has experienced a significant increase in activity with increased special meetings and an increase in temporary staff hours.
- The Commission anticipates a steady increase in activity as additional rules are implemented, the Commission provides education to those impacted by rules, and general knowledge of the Commission increases.
- To meet financial challenges, the Commission vacated its office space and limited travel and overall expenditures.
- The Commission requested a deficiency of \$97,000 in Senate Bill 2025, which includes \$72,000 for SAAG costs and \$25,000 for minimal remodel costs (to ensure separation from other agencies) for relocation of the office to the capitol in the summer 2023. This makes a total deficiency request in SB 2025 at \$97,000.

2023-25 Budget (Attachment No. 4)

The Ethics Commission's base budget for the 2023-25 biennium is \$623,984 with one (1) FTE. Our OMB adjusted base budget for 2023-25 is \$635,930 which includes OMB's adjustment to the base of \$11,946 that included a cost to continue the 2021-23 legislative salary increases and an increase for NDIT rates. The adjusted base budget was submitted with an additional request of \$515,757 and two (2) additional FTEs. Attachment No. 4 shows our requested base budget along with the additional adjustments for a total request of \$1,151,687 and three (3) FTEs. The Executive Recommendation included three (3) FTEs and the Commission's optional requests. It also included additional funding of \$56,446 for the proposed executive salary package.

The following is an itemized description and justification for optional budget items:

- a. **Education & Training Coordinator FTE – \$218,472** (\$152,952 salary & \$65,520 benefits) The Education & Training Coordinator (Grade 106) will develop educational materials/curriculum in light of the Ethics Commission's educational goals to help stakeholders better understand the role of the Ethics Commission. This position will develop methods and tools to effectively communicate Ethics Commission's educational goals.

The Ethics Commission was established pursuant to Article XIV of the North Dakota Constitution for the purpose of strengthening the confidence of the people of North Dakota in their Government and supporting open, ethical, and accountable government. To meet that constitutional directive and best support an open, ethical, and accountable government in North Dakota, individuals

(including citizens, state employees, and those who lobby in the State) need to be knowledgeable about the ethical rules in place in North Dakota's Constitution, statutes, and administrative rules.

This FTE will develop and implement a continuing education and communication plan aimed at: (1) educating citizens of North Dakota so they can be knowledgeable about the role of the Ethics Commission, (2) effectively communicating with the citizens of North Dakota so they can understand how the ethical rules in the Constitution, statutes, and administrative rules function, and (3) training individuals subject to the Ethics Commission's oversight how to fully comply with the rules. This role is critical to the Ethics Commission's role in supporting an open, ethical, and accountable government.

- b. **Executive Assistant FTE – \$164,422** (\$107,952 salary & \$56,470 benefits) The Executive Assistant (Grade 104) will provide administrative and operational support to the Executive Director and Commissioners. Administrative duties are currently performed by part-time temporary Office Manager/Executive Assistant, Holly Gaugler. Ms. Gaugler's hours have significantly increased in past months from approximately 20 hours/week to approximately 30-35 hours/week. It is necessary to transition the position to a full-time FTE position. The Commission also anticipates the administrative duties of the Commission will continue to increase as recent reporting requirements have gone into effect. As the Commission has adopted rules pursuant to the directive of Article XIV, reporting requirements have taken effect. This resulted in a significant increase of filings. As the Commission matures and stakeholders are educated and trained on the jurisdiction of the Commission, we anticipate administrative duties will continue to increase.

This FTE would functionally replace the part-time temporary Office Manager/Executive Assistant. and funding for the part-time position will partially fund this new FTE position (\$103,624).

- c. **Increased Professional Fees - \$216,000** As the Commission matures and implements rules according to ND Constitution Article XIV and N.D.C.C. 54-66, there is an increased requirement to maintain transparency as well as avoid any areas where there maybe conflicts of interest as the Commission carries out its mission. The Commission's base budget has \$20,000 for professional fees.

However, this amount is inadequate to carry out investigations and hire independent counsel when needed.

The Commission's request for additional funding of \$216,000 is an estimate based upon utilizing a special assistant attorney general and other possible professionals at a rate of \$300 per hour for 30 hours per month during the biennium. The basis for additional funding is based upon the Commission needing to hire a special assistant attorney general to provide legal services, this additional funding would also be for other professional services when needed.

- d. **Increased Travel Costs - \$13,448** The Commission has been holding monthly meetings as well as special meetings virtually since Spring of 2020. Although, under the circumstances it has worked well, the Commission would like to increase regular monthly meetings to an in-person meeting at least once a quarter. With increased awareness and education, it also sees meeting lasting two consecutive days rather than just one day per month.

The Commission is a member of the Council on Government Ethics Laws (COGEL), which holds an annual convention each year. This provides the Commissioners with best practices by networking with colleagues throughout the United States. The Commission's goal is to send at least two Commissioners or staff to this event each year of the biennium.

Although, an increase in travel costs (\$13,448) is priority 4, traveling for education and training are critical to creating awareness to our citizens as well as public officials. The Commission is dedicated to providing clarity and awareness of the Commission's jurisdiction and rules and how they can serve North Dakota citizens. Our request includes travel costs for the Executive Director and/or the Education and Training Coordinator travel throughout the state on four (4) separate occasions during the biennium to provide the public training and education opportunities.

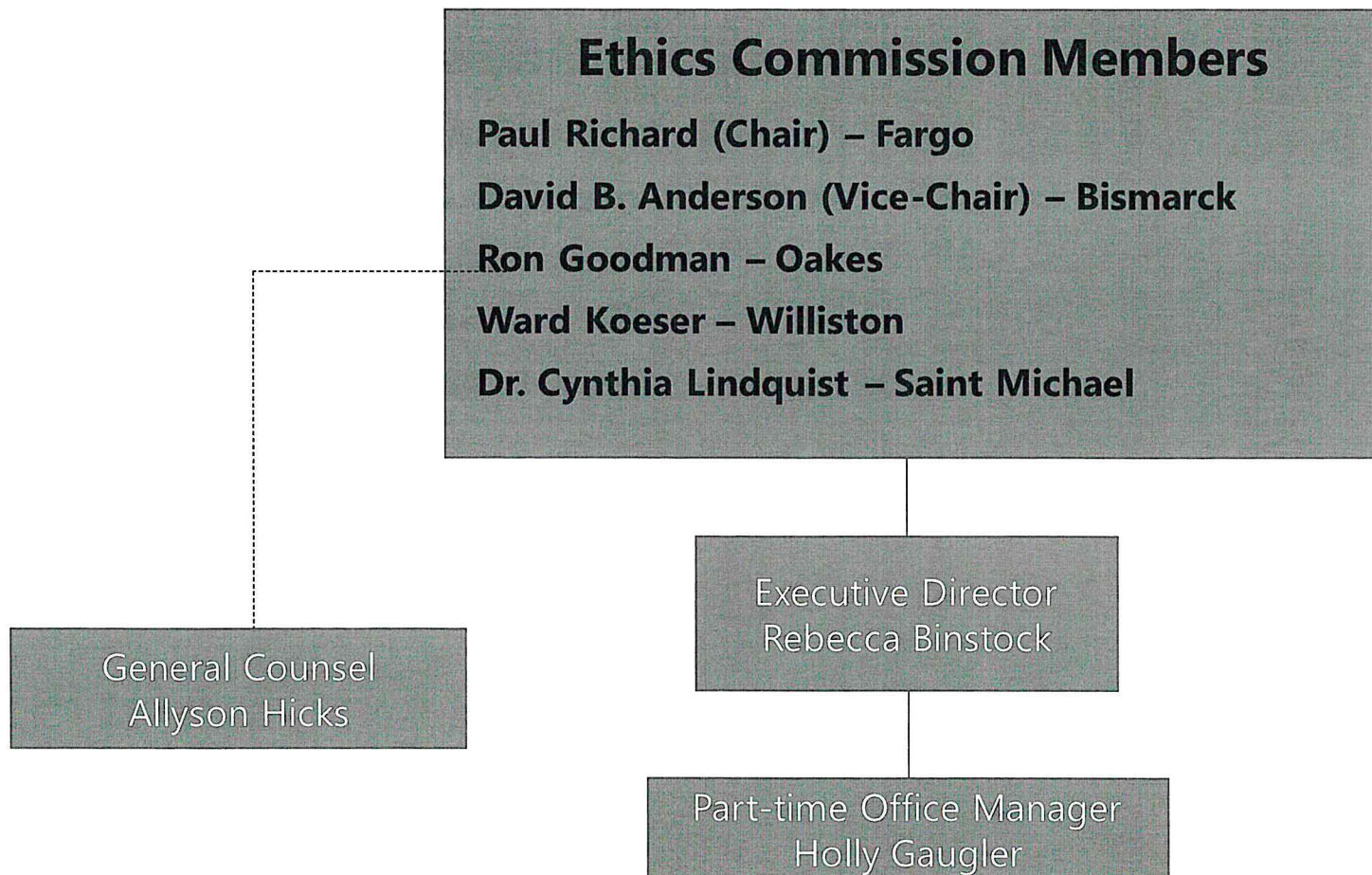
- e. **Increased Data Processing IT Costs - \$7,039** This is the estimated cost of adding an additional employee for equipment, desktop support and line charges.

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

ETHICS COMMISSION

Organizational chart

ATTACHMENT#1



ND Ethics Commission - HB 2024

Level of Activity - Statistical Data

ATTACHMENT #2

Complaints Filed:

<u>Year</u>	<u>Number of Complaints</u>	
2019	2	
2020	3	
2021	9	
2022	14	(12 of 14 have been filed since September 1, 2022)
2023	0	

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 have been filed since September 1, 2022)
2023	16	

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) have been since September 1, 2022)
2023	0	

Number of Quasi-Judicial Disclosures:

<u>Year</u>	<u>Number of Quasi-Judicial Disclosures</u>	
2022	8	(All eight (8) have been since September 1, 2022)
2023	1	

**ND Ethics Commission (Senate Bill 2024)
2021 - 23 Budget Status as of December 31, 2022**

ATTACHMENT #3

SUMMARIZED

	<u>2021-23 Base Budget</u>	<u>Expenditures as of December 31, 2022</u>	<u>Remaining Balance</u>
Salaries and Benefits	\$ 477,518.00	\$ 348,981.00	\$ 128,537.00
Operating Expenses	\$ 146,466.00	\$ 91,253.00	\$ 55,213.00
Total General Funds	\$ 623,984.00	\$ 440,234.00	\$ 183,750.00
TOTAL AUTHORIZED FTE's	1		

DETAIL

	<u>2021-23 Base Budget</u>	<u>Expenditures as of December 31, 2022</u>	<u>Remaining Balance</u>
Salaries and Benefits			
Salaries - Permanent	\$ 271,194.00	\$ 205,954.00	\$ 65,240.00
Salaries -Other (Commissioners)	\$ 32,700.00	\$ 27,623.00	\$ 5,077.00
Temporary Salaries	\$ 103,624.00	\$ 73,618.00	\$ 30,006.00
Fringe Benefits	\$ 70,000.00	\$ 41,786.00	\$ 28,214.00
	\$ 477,518.00	\$ 348,981.00	\$ 128,537.00
Operating Expenses			
Travel	\$ 16,302.00	\$ 2,533.00	\$ 13,769.00
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	\$ -	\$ 1,500.00
Insurance	\$ 250.00	\$ 194.00	\$ 56.00
Rentals/Leases-Equip & Other	\$ 3,552.00	\$ 2,512.00	\$ 1,040.00
Rentals/Leases - Bldg/Land	\$ 52,416.00	\$ 37,128.00	\$ 15,288.00
IT - Data Processing	\$ 33,026.00	\$ 24,228.00	\$ 8,798.00
IT - Communications	\$ 1,920.00	\$ 1,372.00	\$ 548.00
Professional Development	\$ 3,800.00	\$ 3,327.00	\$ 473.00
Operating Fees and Services	\$ 10,000.00	\$ 6,079.00	\$ 3,921.00
Fees - Professional Services	\$ 20,000.00	\$ 12,882.00	\$ 7,118.00
	\$ 146,466.00	\$ 91,253.00	\$ 55,213.00
Total General Funds	\$ 623,984.00	\$ 440,234.00	\$ 183,750.00
TOTAL AUTHORIZED FTE's	1		

	(1) OMB Adjusted 2023-25		2023-25		SUMMARIZED		(2) Executive Recommendation	
	Agency 2021-23 Base Budget	OMB Adjusted 2023-25 Base Budget	Agency Optional Budget Changes	Agency 2023-25 Total Budget Request	2023-25 Executive Recommendation	Change Amount		
Salaries and Benefits	\$ 477,518.00	\$ 484,600.00	\$ 279,270.00	\$ 763,870.00	\$ 820,316.00	\$ 56,446.00		
Operating Expenses	\$ 146,466.00	\$ 151,330.00	\$ 236,487.00	\$ 387,817.00	\$ 387,817.00	\$ -		
Totals	\$ 623,984.00	\$ 635,930.00	\$ 515,757.00	\$ 1,151,687.00	\$ 1,208,133.00	\$ 56,446.00		
FTEs	1	1	2	3	3			

(1) The 2023-25 Adjusted Base Budget includes \$11,946 for costs to continue salary increases and NDIT rate increases.

(2) The executive recommendation added \$56,446 for proposed salary package with benefits.

	(1) OMB Adjusted 2023-25		2023-25		DETAILED		(2) Executive Recommendation	
	Agency 2021-23 Base Budget	OMB Adjusted 2023-25 Base Budget	Agency Optional Budget Changes	Agency 2023-25 Total Budget Request	2023-25 Executive Recommendation	Change Amount		
Salaries - Permanent	\$ 271,194.00	\$ 266,000.00	\$ 260,904.00	\$ 526,904.00	\$ 569,689.00	\$ 42,785.00		
Salaries - Other (Commissioners)	\$ 32,700.00	\$ 27,290.00	\$ -	\$ 27,290.00	\$ 27,290.00	\$ -		
Temporary Salaries	\$ 103,624.00	\$ 103,624.00	\$ (103,624.00)	\$ -	\$ -	\$ -		
Fringe Benefits (FTE)	\$ 70,000.00	\$ 87,686.00	\$ 121,990.00	\$ 209,676.00	\$ 223,337.00	\$ 13,661.00		
Total Salaries and Benefits	\$ 477,518.00	\$ 484,600.00	\$ 279,270.00	\$ 763,870.00	\$ 820,316.00	\$ 56,446.00		
FTE's	1	1	2	3	3			

	(1) OMB Adjusted 2023-25		2023-25		DETAILED		(2) Executive Recommendation	
	Agency 2021-23 Base Budget	OMB Adjusted 2023-25 Base Budget	Agency Optional Budget Changes	Agency 2023-25 Total Budget Request	2023-25 Executive Recommendation	Change Amount		
Travel	\$ 16,302.00	\$ 15,292.00	\$ 13,448.00	\$ 28,740.00	\$ 28,740.00	\$ -		
Professional Supplies	\$ 500.00	\$ 500.00	\$ -	\$ 500.00	\$ 500.00	\$ -		
Miscellaneous Supplies	\$ 500.00	\$ 500.00	\$ -	\$ 500.00	\$ 500.00	\$ -		
Office Supplies	\$ 2,500.00	\$ 2,500.00	\$ -	\$ 2,500.00	\$ 2,500.00	\$ -		
Printing	\$ 200.00	\$ 200.00	\$ -	\$ 200.00	\$ 200.00	\$ -		
IT Equipment under \$5000	\$ 1,500.00	\$ 1,500.00	\$ -	\$ 1,500.00	\$ 1,500.00	\$ -		
Insurance	\$ 250.00	\$ 250.00	\$ -	\$ 250.00	\$ 250.00	\$ -		
Rentals/Leases-Equip & Other	\$ 3,552.00	\$ 3,552.00	\$ -	\$ 3,552.00	\$ 3,552.00	\$ -		
Rentals/Leases - Bldg/Land	\$ 52,416.00	\$ 52,416.00	\$ -	\$ 52,416.00	\$ 52,416.00	\$ -		
IT - Data Processing	\$ 33,026.00	\$ 41,900.00	\$ 7,039.00	\$ 48,939.00	\$ 48,939.00	\$ -		
IT - Communications	\$ 1,920.00	\$ 1,920.00	\$ -	\$ 1,920.00	\$ 1,920.00	\$ -		
Professional Development	\$ 3,800.00	\$ 3,800.00	\$ -	\$ 3,800.00	\$ 3,800.00	\$ -		
Operating Fees and Services	\$ 10,000.00	\$ 7,000.00	\$ -	\$ 7,000.00	\$ 7,000.00	\$ -		
Fees - Professional Services	\$ 20,000.00	\$ 20,000.00	\$ 216,000.00	\$ 236,000.00	\$ 236,000.00	\$ -		
Totals Operating Expenses	\$ 146,466.00	\$ 151,330.00	\$ 236,487.00	\$ 387,817.00	\$ 387,817.00	\$ -		
Agency Total	\$ 623,984.00	\$ 635,930.00	\$ 515,757.00	\$ 1,151,687.00	\$ 1,208,133.00	\$ 56,446.00		
TOTAL AUTHORIZED FTEs	1	1	2	3	3	0		