

GOVERNMENT ADMINISTRATION COMMITTEE - STATEMENTS OF INTERESTS STUDY

Section 1 of 2017 House Bill No. 1418 ([Appendix A](#)), directs the Legislative Management to study several aspects of statements of interests which candidates for elective office are required to file. The Legislative Management approved the study and assigned it to the Government Administration Committee. The study is required to include:

- Examination of the purpose and content of the statements, forms, and information to be filed, including the appropriate financial interests and other necessary content;
- Consideration of whether supplementary statements or updates are necessary;
- Determination regarding who must file statements of interests and who should be filing them;
- Review of filing deadlines; and
- Consideration of how long records should be retained.

STATUTORY REQUIREMENTS FOR STATEMENTS OF INTERESTS

Under North Dakota Century Code Section 16.1-09-02, each candidate for elective office and each individual appointed by the Governor to a state agency, board, bureau, commission, department, or licensing board is required to submit a signed statement of interests with the Secretary of State. However, there is an exception for candidates for President or Vice President of the United States. Candidates for these offices may submit a copy of the personal disclosure statement required by the Federal Election Commission in lieu of the statement of interests. Additionally, a candidate who files a statement of interests for a primary election does not need to refile the statement for the following general election. When a write-in candidate who did not need to file a certificate of candidacy is elected, the elected official must submit a statement of interests after the election at the time the official submits the required oath of office. A Governor appointee must submit a statement of interests at the time the appointment is announced.

Statements of interests must include the information set forth in Section 16.1-09-03 for the candidate or appointee and that person's spouse. The required information is:

- The name of the business or employer and an identification of the principal source of income, defined in the state income tax return as "principal occupation," of both the candidate or appointee and that person's spouse;
- The name of each business or trust, not the principal source of income, in which the person making the statement, and that person's spouse, have a financial interest;
- A list of the associations or institutions with which the person making the statement, and that person's spouse, are closely associated, or for which they serve as a director or officer, and which may be affected by legislative action, in the case of a statement submitted by a legislative candidate, or action by the candidate or appointee in that person's capacity as an officeholder; and
- The identity by name of all business offices, business directorships, and fiduciary relationships the person making the statement, and that person's spouse, have held in the preceding calendar year.

A candidate who is unwilling or unable to correct a discovered error on a statement before the 64th day before an election will not be included on the ballot, according to Section 16.1-09-02.

Section 16.1-09-04 requires the Secretary of State to create and supply statement of interests forms, publish guidelines for completing the forms, and adopt rules, as appropriate, pertaining to the statements. A copy of the statement of interests form, including instructions for completing the form, is attached as [Appendix B](#). To date, there are no administrative rules regarding the statements. The Secretary of State and county and city auditors also share certain responsibilities under Section 16.1-09-05. The Secretary of State and county and city auditors must accept and file statements of interests, retain the statements of interests for the term of office of the filer or until the filer submits a new statement, and make the statements of interests available for public inspection and copying. These officials also must retain statements filed by candidates who are not elected or appointed for a period of 1 year after the date of receipt.

Any person may file a complaint with the Attorney General or a state's attorney alleging a violation of Chapter 16.1-09 regarding statements of interests. Moreover, the Attorney General or a state's attorney may file a motion alleging such a violation. Upon receipt of the complaint or motion, the Attorney General or state's attorney must

investigate the allegation. The investigation is confidential unless and until a determination has been made by the investigator that enough incriminating evidence exists to bring an action and the action is commenced in district court. Under Section 16.1-09-07, an intentional violation of any statute in Chapter 16.1-09 is a Class B misdemeanor, and the election or appointment of any person who commits the violation is void. However, Section 16.1-09-07 provides if the person is already in office and subject to impeachment, the person will not be removed from office. Rather, that person may be impeached or removed from office by other legal means.

OTHER STATES' LEGAL REQUIREMENTS FOR STATEMENTS OF INTERESTS

The requirements for disclosing financial interests varies significantly among the states. According to the National Conference of State Legislatures, more than 35 states have provisions regarding the disclosure of gifts, honoraria, or clients. The specific information regarding income, gifts, honoraria, and clients that must be reported varies significantly among states. While North Dakota requires disclosure of certain campaign contributions and expenditures separately from statements of interests under Chapter 16.1-08.1, the state does not require disclosure of gifts, honoraria, or clients. Charts of state-specific requirements from the National Conference of State Legislatures are attached as Appendices [C](#), [D](#), [E](#), and [F](#).

SUGGESTED STUDY APPROACH

In its study of statements of interests, the committee may want to approach the study as follows:

- Review the current legal requirements for statements of interests in North Dakota and discuss the merits of adding or subtracting reportable information;
- To help identify possible changes to the statements, review and discuss others states' legal requirements for reporting financial interests;
- Obtain information from the National Conference of State Legislatures or other third parties familiar with reporting requirements in other states; and
- Solicit public input at meetings.

ATTACH:6