

**2011 HOUSE POLITICAL SUBDIVISIONS**

**HB 1300**

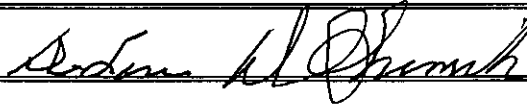
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1300  
January 28, 2011  
Job # 13627

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to the contents of a statement of interests filed by a candidate or appointed officer.

### Minutes:

Chairman Johnson: Opened the hearing on HB 1300.

Rep. Mock: This is another campaign disclosure bill. It amends the statement of interest form that every elected official has to file with the Secretary of State's office before an election. Right now I believe it has four sections. The intent is for all candidates to disclosure their interests. If they have financial interests in investments they have to list them all prior to running and it is on file and an open record through the Secretary of State. HB 1300 adds a subsection into this requiring the listing of non employment income greater than \$50,000. This is so members of the general public will not only know if a candidate has significant financial interests but also the quantity of those interests. That is the bulk of the bill.

Rep. Kretschmar: The \$50,000 is that an annual amount?

Rep. Mock: It is intended to be an annual number.

Rep. Klemin: Are you talking about such things as income and dividends, life insurance. What are you talking about?

Rep. Mock: The intention is to disclosure the interest of non primary source income. The intent was not to disclose the quantity or value of a retirement fund or pension or a Roth IRA. The intention is to show the financial investments in a corporation that is valued at greater than \$50,000.

Rep. Klemin: You just said if you had an interest in a corporation valued at \$50,000 or more, but that is not necessarily income, that is an asset.

Rep. Mock: I am going to defer to Rep. Kaldor on this.

Rep. Hatelstad: Have we had people in ND that have been bad boys that have hidden all of this stuff or is this a solution waiting for a problem to happen?

Rep. Mock: I don't know. We did learn there are some candidates who have run for statewide office who have later run for federal office that their net worth and that they had been benefiting from contracts that were otherwise undisclosed with our statement of interest. This will shed more light on what an individual's financial interests are at the statewide level.

Rep. Beadle: What is the definition of income? If there is a trust set up on which you had survivor benefits that you received due to family members death is this opening up a precedents where somebody has gained life insurance and those sorts of things that now have to be made public that shouldn't necessarily be.

Rep. Mock: You currently have to disclose that you do have interest in that. What this does if those interests are greater than \$50,000 you would have to disclose the quantity?

Rep. Kaldor: I had been employed by the federal government for a couple of years and learned about the disclosure requirements for political office holders on the federal level and noticed the difference between what they are required to do and what state officers in ND are required to do. I think it is important because on the federal level they have to report their interests as we do and we will those statements of interest that tell the whole what we hold interests in and on the federal level they have income thresholds and there are ranges and what we looked at here is simply stating if you are getting more than \$50,000 of income from an outside source that that should be disclosed. It doesn't say how much over \$50,000 but there was a value, as public interest, in knowing that. Here is an example: Had I known this in 2009 it would have had some impact in the legislative process particularly inn appropriation. We had a statewide candidate who always filed a statement of interest disclosing the interest in a certain company that actually did business with the State of ND. In 2010 we found out the extent of income from that source and it was significant and I think the appropriations committee members would have had some questions about the services that we provide, the fees we pay to certain individuals in the state of ND because what you have then is the reception of self dealing. We can't have that. On the federal level there are circumstances where you have to actually divest of certain interests when those interests are actually dealing with the federal government or a reception of federal outlays. All we see is the corporation or company listed on the statement of interest.

Chairman Johnson: It doesn't say anything but what is over \$50,000?

Rep. Kaldor: It is just over \$50,000 but you don't disclose the amount whatever that is.

Rep. Klemin: On line 14 you disclose the amount.

Rep. Kaldor: So it does states the specific amount if it is in excess of \$50,000.

Rep. Klemin: How do you define non employment income?

Rep. Kaldor: they are defined on the statement of interest form. I think there are three sections to the form. They describe the outside interests in corporations, family and other

outside sources of income. Outside income to me is if I hold an interest in XYZ Corporation and they make wheel chairs and I am not a manager, I am just an owner I would be disclosing the income from that outside source.

Rep. Klemin: So are we talking dividends. We are not talking the value of the shares of stock. How about inheritances, life insurance proceeds, trust distributions? Is that what you are talking about?

Rep. Kaldor: I would have to seek further consult on that. The intention would be for outside sources of income that are basically investment purposes. I don't know the implications of trust income and whether or not that has an impact. That would be something to look into on a federal basis.

Rep. Klemin: We need to figure out how to define it if it is not defined somewhere.

Rep. Kaldor: You pose a very interesting question which begs another question. When we file out Statement of Interest's we list all those sources, I am assuming. The question is what is the purpose of listing them? I am assuming we list them so the public can see what we have an interest in as we are elected officials. When we don't have an income threshold in an instrument that is providing \$10/year doesn't seem to be very substantial, but when the amounts get into the millions of dollars and they happen to be circumstances that the State of ND does have an interest that is a different thing. It does raise the question as to why do we disclose anything at all if this is a problem.

Rep. Klemin: I have heard there are certain owners of mineral interests in the bakken formation for example receiving rentals under their oil leases in excess of \$50,000 a year in quite a few cases now. That is not employment that is rents. I think those things would be part of non employment income.

Rep. Kaldor: If they are required to be listed on the disclosure statement they would be, I agree. I would assume farm and real estate rental would be listed. It is already disclosed on the form.

Rep. Klemin: I don't see that in this section. That is not a business or trust and it is not your principal income.

Rep. Kaldor: That might be right.

Rep. Koppelman: Net or gross income?

Rep. Kaldor: Typically that would be net.

Rep. Koppelman: If they have a business and they generate \$60,000 a year and their expenses are \$70,000 a year and they take a \$10,000 loss you would have to report that. What is the purpose of that?

Rep. Kaldor: I don't know how the federal government deals with that. If I hold property which I can claim expenses it is generally not considered unearned income.

Rep. Koppelman: It looks like we are coping the federal laws on disclosure.

Rep. Kaldor: We already disclose in our Statement of Interest the interest we have in outside sources; either of income or association or source of revenue or duties that we bear as elected officials. Since we declared that it seems that it may not be material to declare something that is incidental but it is certainly material when the income level is of such a nature that it weighs heavily against our services of a public servant.

Rep. Koppelman: You said there actually was an instance in ND where this was material and in your opinion would have made a difference. In your interest in public disclosure do you care to keep that secret or do you care to put a name to the allegations.

Rep. Kaldor: I chose not to disclose that at this point. It was disclosed earlier on but that is not my purpose. I only say it happened.

Opposition:

Al Jaeger, Secretary of State: It is based on all the questions that were asked why I would rise in opposition. There is a whole chapter in Century Code about statement of interest. Every candidate for elected positions must file a Statement of Interest to have their name placed on a ballot. We get a lot of questions from the public but we can only say what the law says. These forms are rarely asked for. With the example that was given I am not sure that information would have disclosed because if I just have to list what my primary source might be of income that might not have revealed what Rep. Kaldor was thinking was important to be disclosed. 2262 bill and the sponsor of that have asked if we wanted to visit with any thoughts we have about it. This particular form has the most questions, the least answers, the least looked at. Does it serve the intent? It might be more accurate to get rid of the entire chapter. This bill and what it brings up is just going to add another level of questions. Right now unless we do a wholesale change it seems to me our little change in our bill would add some information. There is no financial information that is required of anything. All you have to list what you have. Rep. Klemin, you have a mutual fund; do you know all the different stocks that are under that mutual fund. I don't know. These are the kinds of questions we get asked and we can't answer that. This gets to be exceedingly challenging and this particular bill just adds another level of questions that you can't answer. My previous would be to work with the other situation.

Rep. Klemin: Is this term non employment income defined in this Chapter?

Al Jaeger: Not that I am aware of.

Rep. Klemin: Are you required to list your assets on the Statement of Interest?

Al Jaeger: We don't know. All we can do is take the form and provide you with the form what the law says and you will have to decide whether that is something it does.

Rep. Klemin: I looked at the section and it doesn't say you have to list your assets. I don't see anything in this section about the contents about the statement of interest that requires

you to basically provide a financial statement listing your income and assets. You are saying you don't know.

Al Jaeger: It says I am supposed to make up a form where you list this. The only thing our amendment does; you are supposed to list your principal source of income and defined on income tax recorded as the principal occupation. Our amendment just says that you should list at least your employer or your business. That came up when a freshmen legislature asked questions about the form.

Rep. Klemin: I can see under your amendment you would have to probably list social security because if you are getting the maximum social security between the two of you or it is probably over \$50,000.

Rep. Shirley Meyer: So your testimony is that this whole section needs to be fixed and clarified.

Al Jaeger: My testimony is that the whole chapter raises a lot of questions for us that we are not able to answer of a form that is required and filed with our office that very few people ever look at.

Rep. Zaiser: I understand the difficulty in interrupting the wide variety of questions and then the difficulty of interpolations? The amount you own; say you have interests in a lot of elevators; wouldn't that present a difficulty in being a legislature?

Al Jaeger: It might, but if you are asking me if you have to report it, I don't know.

Chairman Johnson: How long are you required to keep the forms?

Al Jaeger: As long as they are in office.

Clara Jenkins: As long as they are in office. Then it is transferred to state archives so there is always a record. I don't know what they do with it over there.

David Drovdal: I think the intent of this bill was good. We want open honest government. We want the people to know who is out there. A crook is going to be a crook and a liar is going to be a liar. We can pass all the laws we want to and if someone wants to skirt it they know how to do it. Somewhere we can get to a point of over regulating. We need candidates for both parties. We are not doing very good. The more regulations we put, especially if they are a solution looking for a problem we are discouraging people coming forward. I know personally what would cause me some problems with this especially is you leave the amount of dollars in there. I don't own a lot of land; but I have had an oil company come over and say we are going to drill on your land. I may or may not own minerals under it, but they are going to drill on my land so I have to deal with them and I have to make a settlement with them for the land they damage. If they have more than one site this is going to be over \$50,000 and if I negotiate above what they offered me to start with which everyone does I have to sign a confidentiality agreement so I would break the law. I would either break their law or break your law. I don't want to tell you even if you took that figure out. Pipelines that come across our land; to hit \$50,000 with pipelines are

not going to be very hard. Is that a conflict of interest; no. Do I want my neighbors to know how much I got or how I settled with it, no, absolutely not. My neighbors don't want me to know either so we have to be careful. We could discourage people from running or putting their name on the ballot. We are really going to do any good by making them report where they might have one time income or something like that. On the house we have voted many times, if there is a conflict and they have brought it up we have excused them from voting. I think we are just trying to over regulate.

Rep. Shirley Meyer: First off you would not have to disclose the amount. Just if it is over \$50,000. When you have a situation arise where you have a member doing business; you have a company you own or have a business interest in and you were doing business with the State of ND and you come to find out your company has made you millions of dollars and there was a no bid competition clause in there. You talk about open and honest government and that is where we get into problems where these things did happen. Then as an appropriation member should be step back and say well gee that is OK. You would have a totally different take on it if you knew that was the case. Maybe we need a more open bidding system. I think this whole chapter needs to be rewritten so it is open and honest reporting.

David Drovdal: When I vote on something I go on what is right for all of North Dakota and what is not right. If that one individual is setting there and you can always find a case for anything good or bad that is only one vote out of all the numbers that are in a committee that vote on something. That is only one member of the house so is he at fault for not disclosing it or are we are fault for not looking deeper into the way we are doing business. We have a lot of lobbyist around here that visit with legislatures; sometimes in the evening and sometimes during the day, does that mean that those legislatures that may eat lunch with a lobbyist has a conflict of interest? We know they are going to buy our dinner or buy a group of us dinner we may vote against them the next day. That dinner is not buying our vote and I believe that is the way most legislatures operate.

Neutral: None

Hearing closed.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1300  
February 4, 2011  
Job # 14025

☐ Conference Committee

Committee Clerk Signature



### Minutes:

Proposed amendment #1

Chairman Johnson: Reopened the hearing on HB 1300. It was identifying non employment of \$50,000 or more for both the candidate and individual spouse.

Rep. Mock: (Proposed amendment #1). Explained the amendment. The concern was how do you identify non employment income and specifically stating the exact quantity. Rep. Kaldor had stated what other states have done including what the federal government requires of their candidates. Instead of indicating the exact amount you simply indicate by marking in a box in the appropriate category. The ranges are listed in the amendment. On the top of the Statement of Interest form on the top of each category it actually gives you examples of different interests. Currently all candidates are required to list their interests.

Rep. Mock moved the amendment .02001; Seconded by Rep. Kilichowski

### Discussion:

Chairman Johnson: I think trying to figure out what non employment income is still a problem.

Rep. Mock: Non employment income would be anything else not listed in employment income. This is already explained in the Statement of Interest.

Roll call vote: 2 Yes 9 No 3 Absent Failed.

Do Not Pass Motion Made by Rep. Klemin: Rep. Koppelman:

Vote: 9 Yes 2 No 3 Absent Carrier: Rep. Klemin:

Hearing closed.



#1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1300

Page 1, line 12, after "2." insert "a."

Page 1, line 13, replace "and the" with "."

b. The"

Page 1, line 14, replace "amount" with "range"

Page 1, line 15, after "year" insert ", broken down by source and amount according to the following schedule:"

- (1) Income between fifty thousand dollars and one hundred thousand dollars;
- (2) Income over one hundred thousand dollars, but less than two hundred fifty thousand dollars;
- (3) Income between two hundred fifty thousand dollars and one million dollars; and
- (4) Income over one million dollars"

Renumber accordingly

Date: 2-4-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1300

House Political Subdivisions

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0064.02001

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Mock Seconded By Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson		✓	Rep. Kilichowski	✓	
Vice Chairman Hatelstad		✓	Rep. Shirley Meyer	—	
Rep. Beadle		—	Rep. Mock	✓	
Rep. Devlin		✓	Rep. Zaiser	—	
Rep. Heilman		✓			
Rep. Klemm		✓			
Rep. Koppelman		✓			
Rep. Kretschmar		✓			
Rep. Maragos		✓			
Rep. Pietsch		✓			

Total (Yes) 2 No 9

Absent 3

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Failed!

Date: 2-4-11  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1300

House Political Subdivisions

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By

Rep. Klemin

Seconded By

Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski		✓
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer		—
Rep. Beadle			Rep. Mock		✓
Rep. Devlin	✓		Rep. Zaiser		—
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 9 No 2

Absent 3

Floor Assignment

Rep. Klemin

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1300: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends  
**DO NOT PASS** (9 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1300 was  
placed on the Eleventh order on the calendar.