

## Article 3.

### Public Disclosure of Economic Interests.

#### **§ 138A-21. Purpose.**

The purpose of disclosure of the financial and personal interests by covered persons is to assist covered persons and those who appoint, elect, hire, supervise, or advise them identify and avoid conflicts of interest and potential conflicts of interest between the covered person's private interests and the covered person's public duties. It is critical to this process that current and prospective covered persons examine, evaluate, and disclose those personal and financial interests that could be or cause a conflict of interest or potential conflict of interest between the covered person's private interests and the covered person's public duties. Covered persons must take an active, thorough, and conscientious role in the disclosure and review process, including having a complete knowledge of how the covered person's public position or duties might impact the covered person's private interests. Covered persons have an affirmative duty to provide any and all information that a reasonable person would conclude is necessary to carry out the purposes of this Chapter and to fully disclose any conflict of interest or potential conflict of interest between the covered person's public and private interests, but the disclosure, review, and evaluation process is not intended to result in the disclosure of unnecessary or irrelevant personal information. (2006-201, s. 1; 2008-213, s. 63; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

#### **§ 138A-22. Statement of economic interest; filing required.**

(a) Every covered person subject to this Chapter who is elected, appointed, or employed, including one appointed to fill a vacancy in elective office, except for public servants (i) included under G.S. 138A-3(70)b., e., f., or g. whose annual compensation from the State is less than sixty thousand dollars (\$60,000), or (ii) who are ex officio student members under Chapters 115D and 116 of the General Statutes, shall file a statement of economic interest with the Commission prior to the covered person's initial appointment, election, or employment and no later than April 15 of every year thereafter, except as otherwise filed under subsections (d) and (f) of this section. A prospective covered person required to file a statement under this Chapter shall not be appointed, employed, or receive a certificate of election, prior to submission by the Commission of the Commission's evaluation of the statement in accordance with this Article. The requirement for an annual filing under this subsection also shall apply to covered persons whose terms have expired but who continue to serve until the covered person's replacement is appointed. Once a statement of economic interest is properly completed and filed under this Article, the statement of economic interest does not need to be supplemented or refiled prior to the next due date set forth in this subsection.

(b) Notwithstanding subsection (a) of this section, individuals hired by, and appointees of, constitutional officers of the State may file a statement of economic interest within 30 days after their appointments or employment when the appointment or employment is made during the first 60 days of the constitutional officer's initial term in that constitutional office.

(c) Notwithstanding subsection (a) of this section, public servants, under G.S. 138A-3(70)j. and k., who have submitted a statement of economic interest under subsection (a) of this section, may be hired, appointed, or elected provisionally prior to submission by the Commission of the Commission's evaluation of the statement in accordance with this Article, subject to dismissal or removal based on the Commission's evaluation.

(d) A public servant reappointed to a board between January 1 and April 15 shall file a current statement of economic interest prior to the reappointment.

(e) A public servant appointed to a board determined and designated as nonadvisory under G.S. 138A-10(a)(3) shall file the initial statement of economic interest within 60 days of notification of the designation by the Commission and as provided in this section thereafter.

(f) A candidate for an office subject to this Article shall file the statement of economic interest with the Commission within 10 days of the filing deadline for the office the candidate seeks. An individual nominated under G.S. 163-114 shall file the statement within three days following the individual's nomination, or not later than the day preceding the general election, whichever occurs first. An individual seeking to qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest within three days of filing the petition required under that section. An individual seeking to have write-in votes counted for that individual in a general election shall file a statement of economic interest within three days of the time the candidate files a declaration of intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of economic interest within three days of the time that the president of the convention certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

(g) In addition to subsections (a) and (f) of this section, a covered person holding elected office or a former covered person who held elected office subject to this Article shall file a statement of economic interest in all of the following instances, as specified:

- (1) Filed on or before April 15 of the year following the year a covered person or former covered person does not file a notice of candidacy or petition for election, or does not receive a certificate of election, to the position making that individual a covered person, with all information provided in the statement of economic interest current as of the last day of December of the preceding year.
- (2) Filed on or before April 15 of the year following the year the covered person or former covered person resigns from the position making that individual a covered person, with all information provided in the statement of economic interest current as of the last day in the position.

(h) The State Board of Elections shall provide for notification of the statement of economic interest requirements of this Article to be given to any candidate filing for nomination or election to those offices subject to this Article and to any nominee under G.S. 163-114.

(i) Within 10 days of the filing deadline for office of a covered person, the executive director of the State Board of Elections shall send to the State Ethics Commission a list of the names and addresses of each candidate who has filed as a candidate for office as a covered person. Within five days of an individual otherwise qualifying to be on the ballot, the State Board of Elections shall send notice of that qualification to the State Ethics Commission.

(j) The Commission shall issue forms to be used for the statement of economic interest and shall revise the forms from time to time as necessary to carry out the purposes of this Chapter. Except as otherwise set forth in this section and in G.S. 138A-15(h), upon notification by the employing entity, the Commission shall furnish to all other covered persons the appropriate forms needed to comply with this Article. (2006-201, s. 1; 2007-29, s. 2; 2007-348, ss. 32, 33; 2008-213, s. 64; 2009-549, s. 13; 2010-169, ss. 12, 22(b); 2014-111, s. 13(a); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

### **§ 138A-23. Statements of economic interest as public records.**

(a) The statements of economic interest filed by prospective public servants under this Article for appointed or employed positions and written evaluations by the Commission of these statements are not public records until the prospective public servant is appointed or employed by the State. All other statements of economic interest and all other written evaluations by the Commission of those statements are public records.

(b) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for individuals elected by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the election and made available to all members of the General Assembly. The statements of economic interest filed by public servants elected to positions by the General Assembly, and written evaluations by the Commission of those statements, are not public records until the prospective public servant is sworn into office.

(c) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for individuals confirmed for appointment as a public servant by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the appointment. The statements of economic interest filed by prospective public servants for confirmation for appointment by the General Assembly, and written evaluations by the Commission of those statements, are public records at the time of the announcement of the appointment. (2006-201, s. 1; 2007-347, s. 10; 2008-213, ss. 65, 66; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

#### **§ 138A-24. Contents of statement.**

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Commission. Answers must be provided to all questions. The form shall include the following information about the filing person and the filing person's immediate family:

(1) Except as otherwise provided in this subdivision, the name, current mailing address, occupation, employer, and business of the filing person. Any individual holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a current mailing address instead of the home address on the form required in this subsection. The filing person may also use the initials instead of the name of any unemancipated child of the filing person who also resides in the household of the filing person. If the filing person provides the initials of an unemancipated child, the filing person shall concurrently provide the name of the unemancipated child to the Commission. The name of an unemancipated child provided by the filing person to the Commission shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential.

(2) A list of each asset and liability included in this subdivision of whatever nature (including legal, equitable, or beneficial interest) with a value of at least ten thousand dollars (\$10,000) owned by the filing person and the filing person's immediate family, except assets or liabilities held in a blind trust. This list shall include the following:

a. All real estate located in the State owned wholly or in part by the filing person or the filing person's immediate family, including descriptions adequate to determine the location by city and county of each parcel.

- b. Real estate that is currently leased or rented to or from the State.
  - c. Personal property sold to or bought from the State within the preceding two years.
  - d. Personal property currently leased or rented to or from the State.
  - e. The name of each publicly owned company. For purposes of this sub-subdivision, the term "publicly owned company" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:
    - 1. The filing person or a member of the filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
    - 2. The fund is publicly traded, or the fund's assets are widely diversified.
  - f. The name of each nonpublicly owned company or business entity, including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations.
  - g. For each company or business entity listed under sub-subdivision f. of this subdivision, if known, a list of any other companies or business entities in which the company or business entity owns securities or equity interests exceeding a value of ten thousand dollars (\$10,000).
  - h. For a vested trust created, established, or controlled by the filing person of which the filing person or the members of the filing person's immediate family are the beneficiaries, excluding a blind trust, the name and address of the trustee, a description of the trust, and the filing person's relationship to the trust.
  - i. A list of all liabilities, excluding indebtedness on the filing person's primary personal residence, by type of creditor and debtor.
  - j. A list of all stock options in a company or business not otherwise disclosed on this statement.
- (3) The name of each source (not specific amounts) of income of more than five thousand dollars (\$5,000) received during the previous year by business or industry type, if that source is not listed under subdivision (2) of this subsection. Income shall include salary, wages, professional fees, honoraria, interest, dividends, rental income, and business income from any source other than capital gains, federal government retirement, military retirement, or social security income.
- (4) If the filing person is a practicing attorney, an indication of whether the filing person, or the law firm with which the filing person is affiliated, earned legal fees during the past year in excess of ten thousand dollars (\$10,000) from any of the following categories of legal representation:
- a. Administrative law.
  - b. Admiralty law.
  - c. Corporate law.
  - d. Criminal law.

- e. Decedents' estates law.
  - f. Environmental law.
  - g. Insurance law.
  - h. Labor law.
  - i. Local government law.
  - j. Negligence or other tort litigation law.
  - k. Real property law.
  - l. Securities law.
  - m. Taxation law.
  - n. Utilities regulation law.
- (5) Except for a filing person in compliance under subdivision (4) of this subsection, if the filing person is a licensed professional or provides consulting services, either individually or as a member of a professional association, a list of categories of business and the nature of services rendered, for which payment for services were charged or paid during the past year in excess of ten thousand dollars (\$10,000).
  - (6) An indication of whether the filing person, the filing person's employer, a member of the filing person's immediate family, or the immediate family member's employer is licensed or regulated by, or has a business relationship with, the board or employing entity with which the filing person is or will be associated. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.
  - (7) A list of societies, organizations, or advocacy groups, pertaining to subject matter areas over which the public servant's agency or board may have jurisdiction, in which the public servant or a member of the public servant's immediate family is a director, officer, or governing board member. This subdivision does not apply to a legislator, a judicial officer, or that legislator's or judicial officer's immediate family.
  - (8) A list of all things with a total value of over two hundred dollars (\$200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for lobbying, if such things were given by a person not required to report under Chapter 120C of the General Statutes, excluding things given by a member of the filing person's extended family. The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required by this subdivision shall not apply to things of monetary value received by the filing person prior to the time the filing person filed or was nominated as a candidate for office, as described in G.S. 138A-22, or was appointed or employed as a covered person.
  - (9) A list of any felony convictions of the filing person, excluding any felony convictions for which a pardon of innocence or order of expungement has been granted.
  - (10) Any other information that the filing person believes may assist the Commission in advising the filing person with regards to compliance with this Chapter.

- (11) A list of any nonprofit corporation or organization with which associated during the preceding calendar year, including a list of which of those nonprofit corporations or organizations with which associated do business with the State or receive State funds and a brief description of the nature of the business, if known or with which due diligence could reasonably be known.
- (12) A statement of whether the filing person or the filing person's immediate family is or has been a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes within the preceding 12 months.
- (13) A list of all contributions as defined in G.S. 163-278.6(13) with a cumulative total of more than one thousand dollars (\$1,000) made by the filing person only, during the preceding calendar year, to the candidate or candidate campaign committee of the covered person as defined in G.S. 138A-3(70)a. appointing the filing person to the covered board.
- (14) A statement indicating "Yes" or "No" as to whether the filing person engaged in each of the following activities during the preceding calendar year, with respect to or on the behalf of the candidate or candidate campaign committee of the covered person as defined in G.S. 138A-3(70)a. appointing the filing person: (i) collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected multiple contributions, (ii) hosted a fund-raiser in the filing person's residence or place of business, or (iii) volunteered for campaign-related activity. This subdivision only applies to filing persons in the following categories:
  - a. A public servant, or a prospective appointee to, as defined in G.S. 138A-3(70)c.
  - b. A judicial officer that serves on, or a prospective appointee to, the Supreme Court, the Court of Appeals, the superior court, or the district court.
  - c. A covered person serving on, or a prospective appointee to, one of the following panels or boards:
    1. Alcoholic Beverage Control Commission.
    2. Coastal Resources Commission.
    3. State Board of Education.
    4. State Board of Elections.
    5. Division of Employment Security.
    6. Environmental Management Commission.
    7. Industrial Commission.
    8. State Human Resources Commission.
    9. Rules Review Commission.
    10. Board of Transportation.
    11. Board of Governors of the University of North Carolina.
    12. Utilities Commission.
    13. Wildlife Resources Commission.
- (15) The name of each business with which associated that the filing person or a member of the filing person's immediate family is an employee, director, officer, partner, proprietor, or member or manager.

- (16) For any company or business entity listed under subdivision (15) of this subsection and sub-subdivisions f. and g. of subdivision (2) of this subsection, if known, a statement whether that company or business entity has any material business dealings or business contracts with the State, or is regulated by the State, including a brief description of the business activity.

(b) The Supreme Court, the Committee, constitutional officers of the State, heads of principal departments, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, other boards, and the appointing authority or employing entity may require a filing person to file supplemental information in conjunction with the filing of that filing person's statement of economic interest. These supplemental filings requirements shall be filed with the Commission and included on the forms to be filed with the Commission. The Commission shall evaluate the supplemental forms as part of the statement of economic interest. The failure to file supplemental forms shall be subject to the provisions of G.S. 138A-25.

(c) Each statement of economic interest shall contain a certification by the filing person that the filing person has read the statement and that, to the best of the filing person's knowledge and belief, the statement is true, correct, and complete. The filing person's certification also shall provide that the filing person has not transferred, and will not transfer, any asset, interest, or other property with the intent to conceal it from disclosure while retaining an equitable interest therein.

(d) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the date the statement of economic interest was due.

(e) The Commission shall prepare a written evaluation of each statement of economic interest relative to conflicts of interest and potential conflicts of interest. This subsection does not apply to statements of economic interest of legislators and judicial officers. The Commission shall submit the evaluation to all of the following:

- (1) The filing person who submitted the statement.
- (2) The head of the agency in which the filing person serves.
- (3) The Governor for gubernatorial appointees and employees in agencies under the Governor's authority.
- (4) The appointing or hiring authority for those public servants not under the Governor's authority.
- (5) The State Board of Elections for those filing persons who are elected.

(f) The Commission shall prepare a written evaluation of each statement of economic interest for nominees of the Board of Governors of The University of North Carolina elected pursuant to G.S. 116-6, and nominees of the State Board of Community Colleges elected pursuant to G.S. 115D-2.1 within seven days of the submission of the completed statement of economic interest to the Commission. (2006-201, s. 1; 2007-29, s. 1; 2007-348, s. 34; 2008-187, s. 32; 2008-213, ss. 67-72(a), 73, 74, 74.5, 91; 2009-549, s. 14; 2009-570, s. 45; 2010-169, ss. 13(a)-(d), 17(q), 22(b); 2011-401, s. 3.18; 2013-382, s. 9.1(c); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

#### **§ 138A-25. Failure to file.**

(a) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify filing persons who have failed to file or filing persons whose statement has been deemed incomplete. For a filing person currently serving as a covered person, the Commission shall notify the filing person and the ethics liaison that if the statement of economic interest is not filed or

completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be subject to a fine as provided for in this section.

(b) Any filing person who fails to file or complete a statement of economic interest within 30 days of the receipt of the notice, required under subsection (a) of this section, shall be subject to a fine of two hundred fifty dollars (\$250.00), to be imposed by the Commission.

(c) Failure by any filing person to file or complete a statement of economic interest within 60 days of the receipt of the notice, required under subsection (a) of this section, shall be deemed to be a violation of this Chapter and shall be grounds for disciplinary action under G.S. 138A-45.

(d) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify persons who are required to file a Statement of Economic Interest under G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) of a failure to file the Statement of Economic Interest or the filing of an incomplete Statement of Economic Interest. The Commission shall notify the filing person that if the Statement of Economic Interest is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be fined and referred for prosecution after an additional 30 days, as provided for in this section:

(1) Any filing person who fails to file a Statement of Economic Interest under G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars (\$250.00) by the Commission for not filing or filing an incomplete Statement of Economic Interest, except in extenuating circumstances as determined by the Commission.

(2) Failure by any filing person to file or complete the Statement of Economic Interest within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Director of the State Bureau of Investigation for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist.

(e) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify persons who are required to file an additional disclosure under G.S. 136-200.2(g)(4) or G.S. 136-211(f)(4) of a failure to file the additional disclosure or the filing of an incomplete additional disclosure. The Commission shall notify the filing person that if the additional disclosure is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be fined and referred for prosecution after an additional 30 days, as provided for in this section:

(1) Any filing person who fails to file or who files an incomplete additional disclosure within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars (\$250.00) for not filing or filing an incomplete additional disclosure, except in extenuating circumstances as determined by the Commission.

(2) Failure by any filing person to file or complete the additional disclosure within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Director of the State Bureau of Investigation for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist. (2006-201, s. 1; 2008-213, s. 75; 2009-549, s.



15; 2014-58, s. 12(c); 2014-115, s. 56.6A(c); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

**§ 138A-26. Concealing or failing to disclose material information.**

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

**§ 138A-27. Penalty for false information.**

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45. (2006-201, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

**§ 138A-28. Review and evaluation of statements of economic interest.**

(a) The Commission shall receive and review all statements of economic interest pursuant to G.S. 138A-10(a)(4) and shall evaluate whether (i) the statements conform to the law and the rules of the commission, and (ii) the financial interests and other information reported by prospective and actual covered persons reveal actual or potential conflicts of interest.

(b) Beginning July 1, 2013, the Commission shall establish a biennial cycle for evaluating statements of economic interest. The Commission shall evaluate each initial filing as provided in subsection (a) of this section.

(c) Notwithstanding subsection (b) of this section, statements filed by the following prospective and actual public servants shall be evaluated on an annual basis:

- (1) The University of North Carolina Board of Governors, subject to G.S. 138A-24(f).
- (2) The State Board of Community Colleges, subject to G.S. 138A-124(f).
- (3) The North Carolina Utilities Commission.
- (4) The North Carolina Industrial Commission.
- (5) Supplemental statements filed pursuant to Chapter 136 of the General Statutes.
- (6) Any other board or commission whose members are elected or confirmed by the General Assembly.

(d) Notwithstanding subsections (a) and (b) of this section, statements of economic interest filed by Constitutional officers of the State and individuals elected or appointed as Constitutional officers of the State prior to taking office shall be evaluated every four years upon election or appointment to office.

(e) A public servant who simultaneously serves on more than one covered board may file one statement of economic interest and that statement shall serve as disclosure for all the covered boards. If, during the biennial cycle, a public servant leaves one covered board and begins membership on another covered board, the public servant is not required to file another statement of economic interest, and the State Board is not required to evaluate the statement again in light of the subsequent appointment. The public servant must make subsequent filings pursuant to G.S. 138A-22(a) upon the expiration of the biennial cycle.

(f) Nothing in this section shall be construed to impair the State Board's duties and authority under G.S. 138A-25 and G.S. 138A-26. (2013-360, s. 30.4(b); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ **138A-29.** Reserved for future codification purposes.

§ **138A-30.** Reserved for future codification purposes.