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# HOUSE BILL No. 1518

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-8; IC 4-2-6-8; IC 36-1-20.

**Synopsis:** State and local government ethics. Reduces from \$100 to \$50 the minimum reportable amount for gifts made to state officers, employees, and special appointees on their financial disclosure statements. Requires that these financial disclosure statements must be published on the state's Internet web site. Requires local officers and candidates for local offices to file statements of economic interests. Requires persons who make offers for contracts with political subdivisions to register with the county and to file certain reports. Requires registrations, reports, and statements to be published on the county's Internet web site when the county has the capability to do so. Authorizes the state board of accounts to impose certain civil penalties for violations of the local ethics statute. Makes technical amendments.

**Effective:** July 1, 2011.

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### VanDenburgh

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January 20, 2011, read first time and referred to Committee on Government and Regulatory Reform.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1518



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 3-8-1-33, AS AMENDED BY P.L.2-2005,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 33. (a) A candidate for an office listed in  
4 subsection (b) must file a statement of economic interests.

5 (b) Whenever a candidate for any of the following offices is also  
6 required to file a declaration of candidacy or is nominated by petition,  
7 the candidate shall file a statement of economic interests before filing  
8 the declaration of candidacy or declaration of intent to be a write-in  
9 candidate, before the petition of nomination is filed, before the  
10 certificate of nomination is filed, or before being appointed to fill a  
11 candidate vacancy under IC 3-13-1 or IC 3-13-2:

- 12 (1) Governor, lieutenant governor, secretary of state, auditor of  
13 state, treasurer of state, attorney general, and state superintendent  
14 of public instruction, in accordance with IC 4-2-6-8.
- 15 (2) Senator and representative in the general assembly, in  
16 accordance with IC 2-2.1-3-2.
- 17 (3) Justice of the supreme court, judge of the court of appeals,



1 judge of the tax court, judge of a circuit court, judge of a superior  
 2 court, judge of a county court, judge of a probate court, and  
 3 prosecuting attorney, in accordance with IC 33-23-11-14 and  
 4 IC 33-23-11-15.

5 **(4) A candidate for local office or school board office, in**  
 6 **accordance with IC 36-1-20-9, except a candidate for a local**  
 7 **office described in subdivision (3).**

8 SECTION 2. IC 3-8-2-11, AS AMENDED BY P.L.164-2006,  
 9 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2011]: Sec. 11. (a) A declaration of candidacy may be made  
 11 by mail and is considered filed as of the date and hour the filing occurs  
 12 in the manner described by IC 3-5-2-24.5 in the office of the election  
 13 division or circuit court clerk.

14 (b) A declaration is not valid unless filed in the office of the election  
 15 division or circuit court clerk by noon on the seventy-fourth day before  
 16 a primary election.

17 (c) This subsection applies to a candidate required to file a  
 18 statement of economic ~~interest~~ **interests** under IC 2-2.1-3-2 or  
 19 IC 33-23-11-15, or a financial disclosure statement under IC 4-2-6-8.  
 20 **This subsection does not apply to a candidate for a local office or**  
 21 **school board office required to file a statement of economic**  
 22 **interests under IC 36-1-20-9.** The election division shall require the  
 23 candidate to produce a:

24 (1) copy of the statement, file stamped by the office required to  
 25 receive the statement of economic interests; or

26 (2) receipt showing that the statement has been filed;  
 27 before the election division accepts the declaration for filing. The  
 28 election division shall reject a filing that does not comply with this  
 29 subsection.

30 **(d) This subsection applies to a candidate for a local office or**  
 31 **school board office required to file a statement of economic**  
 32 **interests under IC 36-1-20-9. The circuit court clerk shall reject a**  
 33 **declaration of candidacy if the candidate has not filed a statement**  
 34 **of economic interests.**

35 SECTION 3. IC 4-2-6-8, AS AMENDED BY P.L.89-2006,  
 36 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2011]: Sec. 8. (a) The following persons shall file a written  
 38 financial disclosure statement:

39 (1) The governor, lieutenant governor, secretary of state, auditor  
 40 of state, treasurer of state, attorney general, and state  
 41 superintendent of public instruction.

42 (2) Any candidate for one (1) of the offices in subdivision (1) who

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- 1 is not the holder of one (1) of those offices.
- 2 (3) Any person who is the appointing authority of an agency.
- 3 (4) The director of each division of the department of
- 4 administration.
- 5 (5) Any purchasing agent within the procurement division of the
- 6 department of administration.
- 7 (6) Any agency employee, special state appointee, former agency
- 8 employee, or former special state appointee with final purchasing
- 9 authority.
- 10 (7) An employee required to do so by rule adopted by the
- 11 inspector general.

12 (b) The statement shall be filed with the inspector general as  
 13 follows:

- 14 (1) Not later than February 1 of every year, in the case of the state
- 15 officers and employees enumerated in subsection (a).
- 16 (2) If the individual has not previously filed under subdivision (1)
- 17 during the present calendar year and is filing as a candidate for a
- 18 state office listed in subsection (a)(1), before filing a declaration
- 19 of candidacy under IC 3-8-2 or IC 3-8-4-11, petition of
- 20 nomination under IC 3-8-6, or declaration of intent to be a
- 21 write-in candidate under IC 3-8-2-2.5, or before a certificate of
- 22 nomination is filed under IC 3-8-7-8, in the case of a candidate for
- 23 one (1) of the state offices (unless the statement has already been
- 24 filed when required under IC 3-8-4-11).
- 25 (3) Not later than sixty (60) days after employment or taking
- 26 office, unless the previous employment or office required the
- 27 filing of a statement under this section.
- 28 (4) Not later than thirty (30) days after leaving employment or
- 29 office, unless the subsequent employment or office requires the
- 30 filing of a statement under this section.

31 The statement must be made under affirmation.

32 (c) The statement shall set forth the following information for the  
 33 preceding calendar year or, in the case of a state officer or employee  
 34 who leaves office or employment, the period since a previous statement  
 35 was filed:

- 36 (1) The name and address of any person known:
  - 37 (A) to have a business relationship with the agency of the state
  - 38 officer or employee or the office sought by the candidate; and
  - 39 (B) from whom the state officer, candidate, or the employee,
  - 40 or that individual's spouse or unemancipated children received
  - 41 a gift or gifts having a total fair market value in excess of ~~one~~
  - 42 ~~hundred fifty~~ **fifty** dollars ~~(\$100)~~. **(\$50)**.

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- 1 (2) The location of all real property in which the state officer,  
 2 candidate, or the employee or that individual's spouse or  
 3 unemancipated children has an equitable or legal interest either  
 4 amounting to five thousand dollars (\$5,000) or more or  
 5 comprising ten percent (10%) of the state officer's, candidate's, or  
 6 the employee's net worth or the net worth of that individual's  
 7 spouse or unemancipated children. An individual's primary  
 8 personal residence need not be listed, unless it also serves as  
 9 income property.
- 10 (3) The names and the nature of the business of the employers of  
 11 the state officer, candidate, or the employee and that individual's  
 12 spouse.
- 13 (4) The following information about any sole proprietorship  
 14 owned or professional practice operated by the state officer,  
 15 candidate, or the employee or that individual's spouse:
- 16 (A) The name of the sole proprietorship or professional  
 17 practice.
- 18 (B) The nature of the business.
- 19 (C) Whether any clients are known to have had a business  
 20 relationship with the agency of the state officer or employee or  
 21 the office sought by the candidate.
- 22 (D) The name of any client or customer from whom the state  
 23 officer, candidate, employee, or that individual's spouse  
 24 received more than thirty-three percent (33%) of the state  
 25 officer's, candidate's, employee's, or that individual's spouse's  
 26 nonstate income in a year.
- 27 (5) The name of any partnership of which the state officer,  
 28 candidate, or the employee or that individual's spouse is a member  
 29 and the nature of the partnership's business.
- 30 (6) The name of any corporation (other than a church) of which  
 31 the state officer, candidate, or the employee or that individual's  
 32 spouse is an officer or a director and the nature of the  
 33 corporation's business.
- 34 (7) The name of any corporation in which the state officer,  
 35 candidate, or the employee or that individual's spouse or  
 36 unemancipated children own stock or stock options having a fair  
 37 market value in excess of ten thousand dollars (\$10,000).  
 38 However, if the stock is held in a blind trust, the name of the  
 39 administrator of the trust must be disclosed on the statement  
 40 instead of the name of the corporation. A time or demand deposit  
 41 in a financial institution or insurance policy need not be listed.
- 42 (8) The name and address of the most recent former employer.

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1 (9) Additional information that the person making the disclosure  
2 chooses to include.  
3 Any such state officer, candidate, or employee may file an amended  
4 statement upon discovery of additional information required to be  
5 reported.

6 (d) A person who:  
7 (1) fails to file a statement required by rule or this section in a  
8 timely manner; or  
9 (2) files a deficient statement;  
10 upon a majority vote of the commission, is subject to a civil penalty at  
11 a rate of not more than ten dollars (\$10) for each day the statement  
12 remains delinquent or deficient. The maximum penalty under this  
13 subsection is one thousand dollars (\$1,000).

14 (e) A person who intentionally or knowingly files a false statement  
15 commits a Class A infraction.

16 (f) **The commission shall provide for the publication of financial  
17 disclosure statements filed under this section on the state's Internet  
18 web site.**

19 SECTION 4. IC 36-1-20 IS ADDED TO THE INDIANA CODE AS  
20 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
21 1, 2011]:

22 **Chapter 20. Local Government Officer and Employee Ethics**

23 **Sec. 1. As used in this chapter, "agency" refers to an authority,  
24 a board, a branch, a bureau, a commission, a committee, a council,  
25 a department, a division, an office, a service, or other  
26 instrumentality of a political subdivision. The term includes a body  
27 corporate and politic set up as an instrumentality of a political  
28 subdivision and a private, nonprofit, government related  
29 corporation.**

30 **Sec. 2. As used in this chapter, "auditor" refers to the auditor  
31 of the county of a political subdivision that contains the greatest  
32 percentage of population of the political subdivision.**

33 **Sec. 3. As used in this chapter, "business relationship" means  
34 the dealings of a person with an agency seeking, obtaining,  
35 establishing, maintaining, or implementing contracts or purchases  
36 with an agency.**

37 **Sec. 4. As used in this chapter, "county election board" refers  
38 to the county election board of a political subdivision that contains  
39 the greatest percentage of population of the political subdivision.**

40 **Sec. 5. As used in this chapter, "filer" refers to an individual  
41 who files a statement under section 9 of this chapter.**

42 **Sec. 6. (a) As used in this chapter, "local officer" refers to an**

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**individual who holds:**

- (1) a local office (as defined in IC 3-5-2-29); or**
- (2) a school board office (as defined in IC 3-5-2-45).**

**(b) The term does not include any of the following:**

- (1) A judge of a circuit court.**
- (2) A judge of a superior court.**
- (3) A judge of a county court.**
- (4) A judge of a probate court.**
- (5) A prosecuting attorney.**

**Sec. 7. As used in this chapter, "statement" refers to a statement of financial interests required by section 9 of this chapter.**

**Sec. 8. The definitions in IC 5-22-2 apply throughout this chapter.**

**Sec. 9. (a) The following shall file a written statement of financial interests:**

- (1) A local officer.**
- (2) A candidate for a local office or a school board office. A candidate for a local office described in section 6(b) of this chapter is not required to file a statement under this section.**

**(b) A statement shall be filed with the county election board as follows:**

- (1) Not later than February 1 of every year, in the case of local officers.**
- (2) If an individual has not previously filed under subdivision (1) during the current calendar year and is filing as a candidate for a local office or a school board office described in subsection (a)(2), before filing a declaration of candidacy under IC 3-8-2, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-5.**
- (3) Not later than sixty (60) days after taking office, unless the previous office required the filing of a statement under this section.**
- (4) Not later than thirty (30) days after leaving office, unless the subsequent office requires the filing of a statement under this section.**

**(c) A statement must be made under affirmation.**

**(d) The statement must set forth the following information for the preceding calendar year or, in the case of a local officer who leaves office, the period since the most recent statement was filed:**

- (1) The location of all real property in which the filer, the**

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**filer's spouse, or the filer's unemancipated children has an equitable or legal interest either:**

- (A) with a value of at least five thousand dollars (\$5,000);**
- or**
- (B) comprising at least ten percent (10%) of the filer's, the filer's spouse's, or the filer's unemancipated children's net worth.**

**An individual's primary personal residence need not be listed, unless the residence also serves as income property.**

**(2) The names and the nature of the business of the filer's and the filer's spouse's employers.**

**(3) The following information about any sole proprietorship owned or professional practice operated by the filer or the filer's spouse:**

- (A) The name of the sole proprietorship or professional practice.**
- (B) The nature of the business.**
- (C) Whether any clients are known to have had a business relationship with the filer's agency or with the office sought by the candidate.**
- (D) The name of any client or customer from whom the filer or the filer's spouse received more than thirty-three percent (33%) of the filer's or the filer's spouse's nongovernmental income in a year.**

**(4) The name of any partnership in which the filer or the filer's spouse has a partnership interest and the nature of the partnership's business.**

**(5) The name of a corporation (other than a church) of which the filer or the filer's spouse is an officer or a director and the nature of the corporation's business.**

**(6) The name of a corporation in which the filer or the filer's spouse or unemancipated children own stock or stock options having a fair market value of more than ten thousand dollars (\$10,000). However, if the stock is held in a blind trust, the name of the administrator of the trust must be disclosed on the statement instead of the name of the corporation. A time or demand deposit in a financial institution or insurance policy need not be listed.**

**(7) The name and address of the filer's most recent former employer.**

**(8) Additional information that the filer chooses to include.**

**(e) A filer may file an amended statement upon discovery of**

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**additional information required to be reported.**

**(f) The state board of accounts may impose a civil penalty on an individual who:**

- (1) fails to file a statement required by this section in a timely manner; or**
- (2) files a deficient statement under this section.**

**The civil penalty is ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).**

**(g) A person who intentionally or knowingly files a false statement commits a Class A infraction.**

**(h) The state board of accounts shall prescribe the form of the statement.**

**(i) The county shall publish all statements filed with the county election board under this section on the county's Internet web site, when the county has the capability to publish the statements.**

**Sec. 10. (a) An offeror must register with the auditor not later than five (5) days after submitting an offer to a political subdivision. Subject to subdivision (2) and subsections (c) and (d), an offeror is required to register only once in a county. The offeror shall pay the following registration fees:**

- (1) The first time an offeror registers or if an offeror reregisters, a fee of one hundred dollars (\$100). The fee must be paid at the time the offeror registers or reregisters.**
- (2) A fee of fifty dollars (\$50) before January 1 of each year that the offeror wishes to maintain the offeror's registration with the county. If an offeror fails to pay the registration fee as required under this subdivision, the offeror's registration is considered canceled and the offeror must register as a new offeror under subdivision (1) if the offeror wants to continue making offers to political subdivisions in the county.**

**(b) An offeror's initial registration under this section must include the following information:**

- (1) The offeror's name.**
- (2) The offeror's address.**
- (3) The following information about an individual who is authorized to conduct business for the offeror in Indiana:**
  - (A) The individual's name.**
  - (B) The individual's address.**
  - (C) The individual's telephone number.**
  - (D) The individual's electronic mail address, if any.**

**(c) Each time an offeror makes an offer to a political subdivision**

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1 in the county, the offeror must supplement the offeror's  
2 registration with the following information:

3 (1) The name of the political subdivision to which the offeror  
4 has made an offer.

5 (2) The general subject matter of the contract for which the  
6 offer was made.

7 (d) An offeror shall keep the information required by  
8 subsections (b) and (c) current.

9 (e) The state board of accounts shall prescribe the form of the  
10 registration.

11 Sec. 11. (a) An offeror shall file activity reports with the auditor  
12 as follows:

13 (1) A report must be filed not later than February 1 covering  
14 the period from July 1 through December 31 of the  
15 immediately preceding calendar year.

16 (2) A report must be filed not later than August 1 covering the  
17 period from January 1 through June 30 of the current year.

18 (b) The state board of accounts shall prescribe the form of the  
19 activity report.

20 Sec. 12. (a) An offeror's activity reports must include the  
21 following:

22 (1) A complete and current statement of the information  
23 required to be supplied under section 10 of this chapter.

24 (2) Total expenditures relating to the offeror's business  
25 relationships with agencies (prorated, if necessary) broken  
26 down to include at least the following categories:

27 (A) Compensation to others who are employed to engage  
28 in the business relationships.

29 (B) Reimbursement to others who perform services  
30 relating to the business relationships.

31 (C) Receptions.

32 (D) Entertainment, including meals.

33 (E) Gifts made to an officer of the political subdivision.

34 (3) Subject to section 14 of this chapter, a statement of each:

35 (A) expenditure for entertainment (including meals and  
36 drink); or

37 (B) gift;

38 that equals fifty dollars (\$50) or more in one (1) day, or  
39 expenditures for entertainment (including meals and drink)  
40 or gifts that together total more than two hundred fifty  
41 dollars (\$250) during the calendar year, if the expenditures  
42 and gifts are made by the offeror or the offeror's agent to

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benefit a specific officer.

(4) A description of the offeror's business relationships, including the following:

- (A) The name of each agency contacted.
- (B) The name of the person who contacted the agency listed under clause (A) for the offeror.

(b) The report required by section 11(a)(1) of this chapter must report totals for both the period covered by the report and for the entire calendar year of the report.

(c) A report of an expenditure under subsection (a)(3) must state the following information:

- (1) The name of the person making the expenditure.
- (2) A description of the expenditure.
- (3) The amount of the expenditure.

Sec. 13. (a) This section does not apply to gifts made between close relatives.

(b) An offeror shall file a written report whenever the offeror makes a gift with respect to an officer who is required to be included in a report under section 12(a)(3) of this chapter.

(c) A report under this section must state the following:

- (1) The name of the person making the gift.
- (2) A description of the gift.
- (3) The amount of the gift.

(d) An offeror shall file a copy of a report required by this section with all the following:

- (1) The auditor.
- (2) The officer about whom the report is made.

(e) An offeror shall file a report required by this section not later than fifteen (15) business days after making the gift. A report filed under this section is confidential and is not available for public inspection or copying until ten (10) business days after the report is filed with the auditor.

Sec. 14 (a) If an expenditure for entertainment (including meals and drink) or a gift can clearly and reasonably be attributed to a particular officer, the expenditure must be reported with respect to that particular officer.

(b) A report of an expenditure with respect to a particular officer:

- (1) must report actual amounts; and
- (2) may not allocate to the particular officer a prorated amount derived from an expense made with respect to several officers;

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to the extent practicable.

(c) If two (2) or more offerors contribute to an expenditure, each offeror shall report the actual amount the offeror contributed to the expenditure. For purposes of reporting such an expenditure, the following apply:

(1) For purposes of determining whether the expenditure is reportable, the total amount of the expenditure with respect to a particular officer must be determined and not the amount that each offeror contributed to that expenditure.

(2) Each offeror shall report the actual amount the offeror contributed to the expenditure, even if that amount would not have been reportable under this section if only one (1) offeror made an expenditure of that amount.

(d) The report of an expenditure with respect to a particular officer may not include any amount that the particular officer contributed to the expenditure.

(e) An activity report may not report expenditures or gifts relating to property or services received by an officer if the officer paid for the property or services the amount that would be charged to any purchaser of the property or services in the ordinary course of business.

(f) An activity report may not report expenditures or gifts made between close relatives unless the expenditure or gift is made in connection with a business relationship.

(g) An activity report may not report a contribution (as defined in IC 3-5-2-15).

Sec. 15. A report of an expenditure is not required to include the cost of any of the following:

- (1) Overhead.
- (2) Postage.
- (3) Express mail service.
- (4) Stationery.
- (5) Facsimile transmissions.
- (6) Telephone calls.
- (7) The personal services of clerical and other support staff persons who are not engaged in the business relationships.
- (8) Leasing or renting an office.
- (9) Lodging, meals, and other personal expenses of the offeror or the offeror's agent.

Sec. 16. (a) An offeror shall obtain and preserve all documents necessary to substantiate the activity reports required by this chapter for four (4) years after the date of filing of the report.

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(b) An offeror shall make these documents available for inspection upon request by the state board of accounts.

Sec. 17. (a) Subject to subsections (b) and (c), the state board of accounts shall impose a penalty of one hundred dollars (\$100) per day for each day that the person fails to file a registration or report required by this chapter until the registration or report is filed.

(b) The penalty may not exceed four thousand five hundred dollars (\$4,500) per registration or report.

(c) The state board of accounts may waive the penalty if the state board of accounts determines that the circumstances make imposition of the penalty inappropriate.

Sec. 18. The auditor shall publish registrations and activity reports required by this chapter on the county's Internet web site when the county has the capability to publish the registrations and reports

Sec. 19. (a) All civil penalties paid under this chapter by a local officer or candidate shall be deposited in the general fund of the political subdivision of the local officer or candidate whose action is the basis for the civil penalty imposed under this chapter.

(b) All fees paid under section 10 of this chapter and all civil penalties imposed under section 17 of this chapter shall be deposited in the county general fund.

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