

NEWS

## Legislator as landlord: Financial disclosures don't highlight state agency leases with North Dakota elected officials



Rep. Jason Dockter, R-Bismarck, talks with other legislators at the end of a January 2017 floor session at the state Capitol in Bismarck. Mike McCleary / Bismarck Tribune



By **John Hageman**

June 30, 2019 at 6:10 AM

 Share

BISMARCK — At least several current or former elected state officials in North Dakota have an interest in property rented by state agencies, but those financial relationships weren't readily apparent on campaign disclosure forms.

The officials defended the leases, which aren't awarded through a formal competitive bidding process, as a byproduct of North

Dakota's citizen-run Legislature and said they don't affect their decision-making.

"Should a teacher not be in the Legislature because the state funds education?" said Bismarck Republican Sen. Michael Dwyer, who owns a building rented by the Housing Finance Agency. "I think you can carry that to the extent nobody could serve."

Dina Butcher, who led the charge to pass last year's ballot measure etching new ethics rules into the state constitution, didn't directly criticize the state officials because the arrangements are not illegal and she wasn't aware of any leases being unfairly awarded. But she said the ethics commission created by Measure 1 may take up the issue once it's formed.

The commission will be able to write rules on transparency, corruption, elections and lobbying as well as investigate allegations of wrongdoing. A selection committee is [finalizing its picks](https://www.jamestownsun.com/news/government-and-politics/2731756-Committee-forwards-17-candidates-for-North-Dakota-ethics-commission)(<https://www.jamestownsun.com/news/government-and-politics/2731756-Committee-forwards-17-candidates-for-North-Dakota-ethics-commission>) for the first five commissioners.

"The bidding process, if there is one, should be transparent. And if there isn't a transparent bidding process, then that would be something to take to an ethics commission," Butcher said.



North Dakota Republican Sen. Michael Dwyer owns this Bismarck building that the Housing Finance Agency calls home, pictured here Wednesday, June 26, 2019. John Hageman / Forum News Service

North Dakota Facility Management Director John Boyle said there's no competitive bidding process for agencies seeking to rent space for their operations, unlike other state contracts for things like road construction.

Instead, Boyle said state agencies negotiate leases before sending them to legal counsel for approval. He will then review them to make sure the departments are getting a fair deal. Leases are renewed every two years to coincide with the state's budget cycles.

Boyle said in instances in which an agency is renting from a state official, they're not paying above market rent.

"Actually, they're paying below," he said. "No one's getting \$21 when they should be paying \$15. That's just not there."

Al Carlson, the former Republican House majority leader who owns a building leased to the Department of Human Services in Fargo,

maintained the leasing process is competitive because the agencies shop around. Carlson lost his re-election bid in 2018.



House majority leader Rep. Al Carlson (R-Fargo) speaks in front of the House Appropriations Committee in January 2017. Tom Stromme / Bismarck Tribune file photo

"A Realtor brought them to me. I didn't go looking for them," he said. "When they came to us, we offered them their space, we offered them a price, and they accepted it. There was never any discussion about politics or who was the leader."

Legislative Council Director John Bjornson there's "generally" nothing preventing elected state officials from having an interest in a contract or lease with a state agency. He said he wasn't aware of any instances of improper deals during his time in the office.

In North Dakota and Minnesota, "no statutes specifically address public officials contracting with the government," according to the National Conference of State Legislatures. South Dakota's constitution prevents legislators from being "interested in any contract with the state or any municipality thereof which was authorized by any law passed during such term."



Bismarck Republican Rep. Jason Dockter is a "silent partner" in a limited liability company that owns a building housing the state Highway Patrol in the capital city. Records indicate he was renting to the law enforcement agency in another building before he entered the Legislature in 2013.

Capt. Eric Pederson of the Highway Patrol said Dockter's involvement was not a factor in leasing decisions.

"I've never dealt with Mr. Dockter for anything," he said.



North Dakota Republican Rep. Jason Dockter is a "silent partner" in a group that owns a state Highway Patrol building in Bismarck, pictured here Wednesday, June 26, 2019. John Hageman / Forum News Service

Dwyer, who won his first term in the Legislature in 2018, said he owned the Bismarck office building that houses the Housing Finance Agency before he was in the Legislature.

Public Service Commissioner Julie Fedorchak, a Republican who has been in office since 2012, said she's part of a family partnership started by her father "decades ago" that has leased space to the

Department of Human Services in Fargo since 2006. She said her brother leads the partnership and handles leasing negotiations.

The Housing Finance Agency had been renting space in the Black Building in Fargo, which was acquired by a group in which Gov. Doug Burgum is a "minority investor," a spokesman said. The agency moved out earlier this year amid renovations.

Candidates for the Legislature and statewide elected office in North Dakota must file a "statement of interest" that lists their primary occupation and businesses in which they have a financial interest. Though candidates are instructed to list public agencies to which they or their spouse sold goods or services, the leases identified by Forum News Service weren't specifically disclosed on their most recently filed forms.

The statements of interest are not posted online for public review. Democratic Rep. Corey Mock, who unsuccessfully pushed legislation in 2017 to publish the forms online, is calling for revisiting and updating the statements.

Fedorchak said she wouldn't be opposed to additional transparency on elected officials' financial ties to state agencies. But she noted that her agency regulates utilities and doesn't interact with social services issues, so she hasn't considered her family partnership's lease to be a conflict with her duties.

"I tend to think it should be focused on your conflicts that relate to your area of jurisdiction, not just everything you might be involved in because it doesn't really have any impact on my work here," Fedorchak said. "And there's a certain amount of privacy that even elected officials should be able to have."

Lawmakers, meanwhile, highlighted the part-time nature of their work in arguing that some level of overlapping interests is unavoidable, which is recognized by their own policy manual.

“The increasing complexity of public policy at all levels, with intervention into private affairs, makes conflicts of interest almost inevitable for every part-time public official, and particularly for a member who must vote on measures affecting the life of every citizen or resident of the state,” it states.

The policy also requires that a lawmaker with "a personal or private interest in any measure or bill" to disclose it and be prevented from voting without their fellow legislators' consent.

Dockter said he hasn't raised any potential conflict of interest before voting on the Highway Patrol's budget, but he did so when an issue affected his primary business, a payroll services firm. Like Bjornson, he couldn't remember an instance in which a lawmaker was excused from voting when they brought up their conflict on the floor.

"It's just to the point where people are just saying, 'Yeah we get it, we understand,'" Dockter said. "This is just how it is."

↪ Share

🏷 Tags



By **John Hageman**(<https://www.inforum.com/John Hageman>)

John Hageman is a former staff reporter for Forum News Service, and previously worked for the Grand Forks Herald and Bemidji Pioneer.

(<https://www.inforum.com/John Hageman>)