

1                                   **CAMPAIGN FINANCE REVISIONS**

2   2014 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: James A. Dunnigan**

5                                   Senate Sponsor: John L. Valentine

6 Cosponsor:   Patrice M. Arent

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8                                   **LONG TITLE**

9                                   **General Description:**

10                                   This bill amends provisions of the Election Code relating to campaign finance, conflicts  
11 of interest, and financial disclosures.

12                                   **Highlighted Provisions:**

13                                   This bill:

- 14                                   ▶ defines terms;
- 15                                   ▶ requires that a financial report include expenditures made by a reporting entity or an  
16 agent (including a political consultant) of a reporting entity on behalf of the  
17 reporting entity;
- 18                                   ▶ provides that "contribution" includes a loan by a candidate to the candidate's own  
19 campaign;
- 20                                   ▶ defines "in-kind" contributions;
- 21                                   ▶ provides that when a person makes a detailed listing that discloses or reports the  
22 source of a contribution, discloses or reports the person or entity to whom a  
23 disbursement is made, or discloses or reports the identity of a donor, the person:
- 24                                   • shall reveal the actual source of the contribution, the actual person or entity to  
25 whom the disbursement is ultimately made, or the actual identity of the donor;
- 26 and



- 27           • may not merely list, disclose, or report the transactional intermediary;
- 28           ▶ modifies required filing dates for a financial disclosure form filed by a regulated
- 29 officeholder;
- 30           ▶ modifies and expands the information that a regulated officeholder is required to
- 31 disclose in a financial disclosure form, including:
- 32           • information for the year preceding the day on which the regulated officeholder
- 33 files a financial disclosure form; and
- 34           • information relating to paid advisory or consultant services provided by the
- 35 regulated officeholder;
- 36           ▶ expands disclosure provisions to include a regulated officeholder's involvement in
- 37 limited liability corporations and other entities;
- 38           ▶ clarifies that a regulated officeholder may file an amended financial disclosure form
- 39 at any time;
- 40           ▶ addresses the publication and retention of financial disclosure forms;
- 41           ▶ establishes criminal and civil penalties for violating certain provisions of this bill
- 42 relating to the filing or content of a financial disclosure form;
- 43           ▶ describes duties of the lieutenant governor for reviewing a financial disclosure form
- 44 and enforcing the provisions of this bill;
- 45           ▶ provides that the lieutenant governor shall deposit a fine collected under this bill
- 46 into the General Fund as a dedicated credit to pay for the costs of administering the
- 47 provisions of this bill; and
- 48           ▶ makes technical and conforming changes.

49 **Money Appropriated in this Bill:**

50           None

51 **Other Special Clauses:**

52           None

53 **Utah Code Sections Affected:**

54 AMENDS:

55           **20A-11-101**, as last amended by Laws of Utah 2013, Chapters 86, 170, 318, and 420

56           **20A-11-1601**, as enacted by Laws of Utah 2010, Chapter 12

57           **20A-11-1602**, as enacted by Laws of Utah 2010, Chapter 12

58 **20A-11-1603**, as last amended by Laws of Utah 2011, Chapter 297

59 ENACTS:

60 **20A-11-101.3**, Utah Code Annotated 1953

61 **20A-11-101.5**, Utah Code Annotated 1953

62 **20A-11-1605**, Utah Code Annotated 1953

63 **20A-12-301.5**, Utah Code Annotated 1953

64 RENUMBERS AND AMENDS:

65 **20A-11-1604**, (Renumbered from 76-8-109, as last amended by Laws of Utah 2013,  
66 Chapter 278)



68 *Be it enacted by the Legislature of the state of Utah:*

69 Section 1. Section **20A-11-101** is amended to read:

70 **20A-11-101. Definitions.**

71 As used in this chapter:

72 (1) "Address" means the number and street where an individual resides or where a  
73 reporting entity has its principal office.

74 (2) "Agent of a reporting entity" means:

75 (a) a person acting on behalf of a reporting entity at the direction of the reporting  
76 entity;

77 (b) a person employed by a reporting entity in the reporting entity's capacity as a  
78 reporting entity;

79 (c) the personal campaign committee of a candidate or officeholder;

80 (d) a member of the personal campaign committee of a candidate or officeholder in the  
81 member's capacity as a member of the personal campaign committee of the candidate or  
82 officeholder; or

83 (e) a political consultant of a reporting entity.

84 [~~2~~] (3) "Ballot proposition" includes initiatives, referenda, proposed constitutional  
85 amendments, and any other ballot propositions submitted to the voters that are authorized by  
86 the Utah Code Annotated 1953.

87 [~~3~~] (4) "Candidate" means any person who:

88 (a) files a declaration of candidacy for a public office; or

89 (b) receives contributions, makes expenditures, or gives consent for any other person to  
90 receive contributions or make expenditures to bring about the person's nomination or election  
91 to a public office.

92 [~~(4)~~] (5) "Chief election officer" means:

93 (a) the lieutenant governor for state office candidates, legislative office candidates,  
94 officeholders, political parties, political action committees, corporations, political issues  
95 committees, state school board candidates, judges, and labor organizations, as defined in  
96 Section 20A-11-1501; and

97 (b) the county clerk for local school board candidates.

98 [~~(5)~~] (6) (a) "Contribution" means any of the following when done for political  
99 purposes:

100 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of  
101 value given to the filing entity;

102 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,  
103 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or  
104 anything of value to the filing entity;

105 (iii) any transfer of funds from another reporting entity to the filing entity;

106 (iv) compensation paid by any person or reporting entity other than the filing entity for  
107 personal services provided without charge to the filing entity;

108 (v) remuneration from:

109 (A) any organization or its directly affiliated organization that has a registered lobbyist;

110 or

111 (B) any agency or subdivision of the state, including school districts; [~~and~~]

112 [~~(vi) goods or services provided to or for the benefit of the filing entity at less than fair  
113 market value.~~]

114 (vi) a loan made by a candidate to the candidate's own campaign; and

115 (vii) in-kind contributions.

116 (b) "Contribution" does not include:

117 (i) services provided [~~without compensation~~] by individuals volunteering a portion or  
118 all of their time on behalf of the filing entity if the services are provided without compensation  
119 by the filing entity or any other person;

120 (ii) money lent to the filing entity by a financial institution in the ordinary course of  
121 business; or

122 (iii) goods or services provided for the benefit of a candidate or political party at less  
123 than fair market value that are not authorized by or coordinated with the candidate or political  
124 party.

125 ~~[(6)]~~ (7) "Coordinated with" means that goods or services provided for the benefit of a  
126 candidate or political party are provided:

127 (a) with the candidate's or political party's prior knowledge, if the candidate or political  
128 party does not object;

129 (b) by agreement with the candidate or political party;

130 (c) in coordination with the candidate or political party; or

131 (d) using official logos, slogans, and similar elements belonging to a candidate or  
132 political party.

133 ~~[(7)]~~ (8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business  
134 organization that is registered as a corporation or is authorized to do business in a state and  
135 makes any expenditure from corporate funds for:

136 (i) the purpose of expressly advocating for political purposes; or

137 (ii) the purpose of expressly advocating the approval or the defeat of any ballot  
138 proposition.

139 (b) "Corporation" does not mean:

140 (i) a business organization's political action committee or political issues committee; or

141 (ii) a business entity organized as a partnership or a sole proprietorship.

142 ~~[(8)]~~ (9) "County political party" means, for each registered political party, all of the  
143 persons within a single county who, under definitions established by the political party, are  
144 members of the registered political party.

145 ~~[(9)]~~ (10) "County political party officer" means a person whose name is required to be  
146 submitted by a county political party to the lieutenant governor in accordance with Section  
147 [20A-8-402](#).

148 ~~[(10)]~~ (11) "Detailed listing" means:

149 (a) for each contribution or public service assistance:

150 (i) the name and address of the individual or source making the contribution or public

151 service assistance;

152 (ii) the amount or value of the contribution or public service assistance; and

153 (iii) the date the contribution or public service assistance was made; and

154 (b) for each expenditure:

155 (i) the amount of the expenditure;

156 (ii) the person or entity to whom it was disbursed;

157 (iii) the specific purpose, item, or service acquired by the expenditure; and

158 (iv) the date the expenditure was made.

159 ~~[(11)]~~ (12) (a) "Donor" means a person that gives money, including a fee, due, or  
160 assessment for membership in the corporation, to a corporation without receiving full and  
161 adequate consideration for the money.

162 (b) "Donor" does not include a person that signs a statement that the corporation may  
163 not use the money for an expenditure or political issues expenditure.

164 ~~[(12)]~~ (13) "Election" means each:

165 (a) regular general election;

166 (b) regular primary election; and

167 (c) special election at which candidates are eliminated and selected.

168 ~~[(13)]~~ (14) "Electioneering communication" means a communication that:

169 (a) has at least a value of \$10,000;

170 (b) clearly identifies a candidate or judge; and

171 (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising  
172 facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly  
173 identified candidate's or judge's election date.

174 ~~[(14)]~~ (15) (a) "Expenditure" means any of the following made by a reporting entity or  
175 an agent of a reporting entity on behalf of the reporting entity:

176 (i) any disbursement from contributions, receipts, or from the separate bank account  
177 required by this chapter;

178 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,  
179 or anything of value made for political purposes;

180 (iii) an express, legally enforceable contract, promise, or agreement to make any  
181 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of

182 value for political purposes;

183 (iv) compensation paid by a filing entity for personal services rendered by a person  
184 without charge to a reporting entity;

185 (v) a transfer of funds between the filing entity and a candidate's personal campaign  
186 committee; or

187 (vi) goods or services provided by the filing entity to or for the benefit of another  
188 reporting entity for political purposes at less than fair market value.

189 (b) "Expenditure" does not include:

190 (i) services provided without compensation by individuals volunteering a portion or all  
191 of their time on behalf of a reporting entity;

192 (ii) money lent to a reporting entity by a financial institution in the ordinary course of  
193 business; or

194 (iii) anything listed in Subsection ~~[(14)]~~ (15)(a) that is given by a reporting entity to  
195 candidates for office or officeholders in states other than Utah.

196 ~~[(15)]~~ (16) "Federal office" means the office of president of the United States, United  
197 States Senator, or United States Representative.

198 ~~[(16)]~~ (17) "Filing entity" means the reporting entity that is required to file a financial  
199 statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

200 ~~[(17)]~~ (18) "Financial statement" includes any summary report, interim report, verified  
201 financial statement, or other statement disclosing contributions, expenditures, receipts,  
202 donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial  
203 Retention Elections.

204 ~~[(18)]~~ (19) "Governing board" means the individual or group of individuals that  
205 determine the candidates and committees that will receive expenditures from a political action  
206 committee, political party, or corporation.

207 ~~[(19)]~~ (20) "Incorporation" means the process established by Title 10, Chapter 2, Part  
208 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

209 ~~[(20)]~~ (21) "Incorporation election" means the election authorized by Section [10-2-111](#).

210 ~~[(21)]~~ (22) "Incorporation petition" means a petition authorized by Section [10-2-109](#).

211 ~~[(22)]~~ (23) "Individual" means a natural person.

212 (24) "In-kind contribution" means anything of value, other than money, that is accepted

213 by or coordinated with a filing entity.

214 [~~(23)~~] (25) "Interim report" means a report identifying the contributions received and  
215 expenditures made since the last report.

216 [~~(24)~~] (26) "Legislative office" means the office of state senator, state representative,  
217 speaker of the House of Representatives, president of the Senate, and the leader, whip, and  
218 assistant whip of any party caucus in either house of the Legislature.

219 [~~(25)~~] (27) "Legislative office candidate" means a person who:

220 (a) files a declaration of candidacy for the office of state senator or state representative;

221 (b) declares oneself to be a candidate for, or actively campaigns for, the position of  
222 speaker of the House of Representatives, president of the Senate, or the leader, whip, and  
223 assistant whip of any party caucus in either house of the Legislature; or

224 (c) receives contributions, makes expenditures, or gives consent for any other person to  
225 receive contributions or make expenditures to bring about the person's nomination, election, or  
226 appointment to a legislative office.

227 [~~(26)~~] (28) "Major political party" means either of the two registered political parties  
228 that have the greatest number of members elected to the two houses of the Legislature.

229 [~~(27)~~] (29) "Officeholder" means a person who holds a public office.

230 [~~(28)~~] (30) "Party committee" means any committee organized by or authorized by the  
231 governing board of a registered political party.

232 [~~(29)~~] (31) "Person" means both natural and legal persons, including individuals,  
233 business organizations, personal campaign committees, party committees, political action  
234 committees, political issues committees, and labor organizations, as defined in Section  
235 [20A-11-1501](#).

236 [~~(30)~~] (32) "Personal campaign committee" means the committee appointed by a  
237 candidate to act for the candidate as provided in this chapter.

238 [~~(31)~~] (33) "Personal use expenditure" has the same meaning as provided under Section  
239 [20A-11-104](#).

240 [~~(32)~~] (34) (a) "Political action committee" means an entity, or any group of  
241 individuals or entities within or outside this state, a major purpose of which is to:

242 (i) solicit or receive contributions from any other person, group, or entity for political  
243 purposes; or

244 (ii) make expenditures to expressly advocate for any person to refrain from voting or to  
245 vote for or against any candidate or person seeking election to a municipal or county office.

246 (b) "Political action committee" includes groups affiliated with a registered political  
247 party but not authorized or organized by the governing board of the registered political party  
248 that receive contributions or makes expenditures for political purposes.

249 (c) "Political action committee" does not mean:

250 (i) a party committee;

251 (ii) any entity that provides goods or services to a candidate or committee in the regular  
252 course of its business at the same price that would be provided to the general public;

253 (iii) an individual;

254 (iv) individuals who are related and who make contributions from a joint checking  
255 account;

256 (v) a corporation, except a corporation a major purpose of which is to act as a political  
257 action committee; or

258 (vi) a personal campaign committee.

259 (35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid  
260 by another person on behalf of and with the knowledge of the reporting entity, to provide  
261 political advice to the reporting entity.

262 (b) "Political consultant" includes a circumstance described in Subsection (35)(a),  
263 where the person:

264 (i) has already been paid, with money or other consideration;

265 (ii) expects to be paid in the future, with money or other consideration; or

266 (iii) understands that the person may, in the discretion of the reporting entity or another  
267 person on behalf of and with the knowledge of the reporting entity, be paid in the future, with  
268 money or other consideration.

269 ~~[(33)]~~ (36) "Political convention" means a county or state political convention held by  
270 a registered political party to select candidates.

271 ~~[(34)]~~ (37) (a) "Political issues committee" means an entity, or any group of individuals  
272 or entities within or outside this state, a major purpose of which is to:

273 (i) solicit or receive donations from any other person, group, or entity to assist in

274 placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or

275 to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

276 (ii) make expenditures to expressly advocate for any person to sign or refuse to sign a  
277 ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any  
278 proposed ballot proposition or an incorporation in an incorporation election; or

279 (iii) make expenditures to assist in qualifying or placing a ballot proposition on the  
280 ballot or to assist in keeping a ballot proposition off the ballot.

281 (b) "Political issues committee" does not mean:

282 (i) a registered political party or a party committee;

283 (ii) any entity that provides goods or services to an individual or committee in the  
284 regular course of its business at the same price that would be provided to the general public;

285 (iii) an individual;

286 (iv) individuals who are related and who make contributions from a joint checking  
287 account; or

288 (v) a corporation, except a corporation a major purpose of which is to act as a political  
289 issues committee.

290 [(35)] (38) (a) "Political issues contribution" means any of the following:

291 (i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or  
292 anything of value given to a political issues committee;

293 (ii) an express, legally enforceable contract, promise, or agreement to make a political  
294 issues donation to influence the approval or defeat of any ballot proposition;

295 (iii) any transfer of funds received by a political issues committee from a reporting  
296 entity;

297 (iv) compensation paid by another reporting entity for personal services rendered  
298 without charge to a political issues committee; and

299 (v) goods or services provided to or for the benefit of a political issues committee at  
300 less than fair market value.

301 (b) "Political issues contribution" does not include:

302 (i) services provided without compensation by individuals volunteering a portion or all  
303 of their time on behalf of a political issues committee; or

304 (ii) money lent to a political issues committee by a financial institution in the ordinary  
305 course of business.

306            [~~36~~] (39) (a) "Political issues expenditure" means any of the following when made by  
307 a political issues committee or on behalf of a political issues committee by an agent of the  
308 reporting entity:

309            (i) any payment from political issues contributions made for the purpose of influencing  
310 the approval or the defeat of:

311            (A) a ballot proposition; or

312            (B) an incorporation petition or incorporation election;

313            (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for  
314 the express purpose of influencing the approval or the defeat of:

315            (A) a ballot proposition; or

316            (B) an incorporation petition or incorporation election;

317            (iii) an express, legally enforceable contract, promise, or agreement to make any  
318 political issues expenditure;

319            (iv) compensation paid by a reporting entity for personal services rendered by a person  
320 without charge to a political issues committee; or

321            (v) goods or services provided to or for the benefit of another reporting entity at less  
322 than fair market value.

323            (b) "Political issues expenditure" does not include:

324            (i) services provided without compensation by individuals volunteering a portion or all  
325 of their time on behalf of a political issues committee; or

326            (ii) money lent to a political issues committee by a financial institution in the ordinary  
327 course of business.

328            [~~37~~] (40) "Political purposes" means an act done with the intent or in a way to  
329 influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote  
330 for or against any candidate or a person seeking a municipal or county office at any caucus,  
331 political convention, or election.

332            [~~38~~] (41) (a) "Poll" means the survey of a person regarding the person's opinion or  
333 knowledge of an individual who has filed a declaration of candidacy for public office, or of a  
334 ballot proposition that has legally qualified for placement on the ballot, which is conducted in  
335 person or by telephone, facsimile, Internet, postal mail, or email.

336            (b) "Poll" does not include:

- 337 (i) a ballot; or
- 338 (ii) an interview of a focus group that is conducted, in person, by one individual, if:
- 339 (A) the focus group consists of more than three, and less than thirteen, individuals; and
- 340 (B) all individuals in the focus group are present during the interview.

341 [~~(39)~~] (42) "Primary election" means any regular primary election held under the  
342 election laws.

343 [~~(40)~~] (43) "Public office" means the office of governor, lieutenant governor, state  
344 auditor, state treasurer, attorney general, state or local school board member, state senator, state  
345 representative, speaker of the House of Representatives, president of the Senate, and the leader,  
346 whip, and assistant whip of any party caucus in either house of the Legislature.

347 [~~(41)~~] (44) (a) "Public service assistance" means the following when given or provided  
348 to an officeholder to defray the costs of functioning in a public office or aid the officeholder to  
349 communicate with the officeholder's constituents:

350 (i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of  
351 money or anything of value to an officeholder; or

352 (ii) goods or services provided at less than fair market value to or for the benefit of the  
353 officeholder.

354 (b) "Public service assistance" does not include:

355 (i) anything provided by the state;

356 (ii) services provided without compensation by individuals volunteering a portion or all  
357 of their time on behalf of an officeholder;

358 (iii) money lent to an officeholder by a financial institution in the ordinary course of  
359 business;

360 (iv) news coverage or any publication by the news media; or

361 (v) any article, story, or other coverage as part of any regular publication of any  
362 organization unless substantially all the publication is devoted to information about the  
363 officeholder.

364 [~~(42)~~] (45) "Publicly identified class of individuals" means a group of 50 or more  
365 individuals sharing a common occupation, interest, or association that contribute to a political  
366 action committee or political issues committee and whose names can be obtained by contacting  
367 the political action committee or political issues committee upon whose financial statement the

368 individuals are listed.

369 ~~[(43)]~~ (46) "Receipts" means contributions and public service assistance.

370 ~~[(44)]~~ (47) "Registered lobbyist" means a person registered under Title 36, Chapter 11,  
371 Lobbyist Disclosure and Regulation Act.

372 ~~[(45)]~~ (48) "Registered political action committee" means any political action  
373 committee that is required by this chapter to file a statement of organization with the Office of  
374 the Lieutenant Governor.

375 ~~[(46)]~~ (49) "Registered political issues committee" means any political issues  
376 committee that is required by this chapter to file a statement of organization with the Office of  
377 the Lieutenant Governor.

378 ~~[(47)]~~ (50) "Registered political party" means an organization of voters that:

379 (a) participated in the last regular general election and polled a total vote equal to 2%  
380 or more of the total votes cast for all candidates for the United States House of Representatives  
381 for any of its candidates for any office; or

382 (b) has complied with the petition and organizing procedures of Chapter 8, Political  
383 Party Formation and Procedures.

384 ~~[(48)]~~ (51) (a) "Remuneration" means a payment:

385 (i) made to a legislator for the period the Legislature is in session; and

386 (ii) that is approximately equivalent to an amount a legislator would have earned  
387 during the period the Legislature is in session in the legislator's ordinary course of business.

388 (b) "Remuneration" does not mean anything of economic value given to a legislator by:

389 (i) the legislator's primary employer in the ordinary course of business; or

390 (ii) a person or entity in the ordinary course of business:

391 (A) because of the legislator's ownership interest in the entity; or

392 (B) for services rendered by the legislator on behalf of the person or entity.

393 ~~[(49)]~~ (52) "Reporting entity" means a candidate, a candidate's personal campaign

394 committee, a judge, a judge's personal campaign committee, an officeholder, a party

395 committee, a political action committee, a political issues committee, a corporation, or a labor  
396 organization, as defined in Section [20A-11-1501](#).

397 ~~[(50)]~~ (53) "School board office" means the office of state school board or local school  
398 board.

399           ~~[(51)]~~ (54) (a) "Source" means the person or entity that is the legal owner of the  
400 tangible or intangible asset that comprises the contribution.

401           (b) "Source" means, for political action committees and corporations, the political  
402 action committee and the corporation as entities, not the contributors to the political action  
403 committee or the owners or shareholders of the corporation.

404           ~~[(52)]~~ (55) "State office" means the offices of governor, lieutenant governor, attorney  
405 general, state auditor, and state treasurer.

406           ~~[(53)]~~ (56) "State office candidate" means a person who:

407           (a) files a declaration of candidacy for a state office; or

408           (b) receives contributions, makes expenditures, or gives consent for any other person to  
409 receive contributions or make expenditures to bring about the person's nomination, election, or  
410 appointment to a state office.

411           ~~[(54)]~~ (57) "Summary report" means the year end report containing the summary of a  
412 reporting entity's contributions and expenditures.

413           ~~[(55)]~~ (58) "Supervisory board" means the individual or group of individuals that  
414 allocate expenditures from a political issues committee.

415           Section 2. Section **20A-11-101.3** is enacted to read:

416           **20A-11-101.3. Detailed listing -- Rulemaking authority.**

417           The director of elections, within the Lieutenant Governor's Office, may make rules, in  
418 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in relation to the  
419 form, type, and level of detail required in a detailed listing.

420           Section 3. Section **20A-11-101.5** is enacted to read:

421           **20A-11-101.5. Disclosure of actual source or recipient required.**

422           (1) As used in this section, "transactional intermediary" means a person, including a  
423 credit card company, a financial institution, or a money transfer service, that pays or transfers  
424 money to a person on behalf of another person.

425           (2) When, under this chapter, a person makes a detailed listing, discloses or reports the  
426 source of a contribution, discloses or reports the person or entity to whom a disbursement is  
427 made, or discloses or reports the identity of a donor, the person:

428           (a) shall reveal the actual source of the contribution, the actual person or entity to  
429 whom the disbursement is ultimately made, or the actual identity of the donor; and

430 (b) may not merely list, disclose, or report the transactional intermediary.

431 Section 4. Section **20A-11-1601** is amended to read:

432 **Part 16. Financial Disclosures**

433 **20A-11-1601. Title.**

434 This part is known as [~~Candidate~~] "Financial Disclosures."

435 Section 5. Section **20A-11-1602** is amended to read:

436 **20A-11-1602. Definitions.**

437 [~~(1) "Filing officer" is as defined in Section 20A-9-101.~~]

438 As used in this part:

439 (1) "Conflict of interest" means an action that is taken by a regulated officeholder that  
440 the officeholder reasonably believes may cause direct financial benefit or detriment to the  
441 officeholder, a member of the officeholder's immediate family, or an entity that the officeholder  
442 is required to disclose under the provisions of this section, if that benefit or detriment is  
443 distinguishable from the effects of that action on the public or on the officeholder's profession,  
444 occupation, or association generally.

445 (2) "Entity" means a corporation, a partnership, a limited liability company, a limited  
446 partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint  
447 venture, a governmental entity, an unincorporated organization, or any other legal entity,  
448 regardless of whether it is established primarily for the purpose of gain or economic profit.

449 (3) "Immediate family" means the regulated officeholder's spouse, a child living in the  
450 regulated officeholder's immediate household, or an individual claimed as a dependent for state  
451 or federal income tax purposes by the regulated officeholder.

452 (4) "Income" means earnings, compensation, or any other payment made to an  
453 individual for gain, regardless of source, whether denominated as wages, salary, commission,  
454 pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses,  
455 reimbursement, dividends, or otherwise.

456 (5) (a) "Owner or officer" means an individual who owns an ownership interest in an  
457 entity or holds a position where the person has authority to manage, direct, control, or make  
458 decisions for:

459 (i) the entity or a portion of the entity; or

460 (ii) an employee, agent, or independent contractor of the entity.

461 (b) "Owner or officer" includes:

462 (i) a member of a board of directors or other governing body of an entity; or

463 (ii) a partner in any type of partnership.

464 (6) "Preceding year" means the year immediately preceding the day on which the

465 regulated officeholder files a financial disclosure form.

466 (7) "Regulated officeholder" means an individual who is required to file a financial

467 disclosure form under the provisions of this part.

468 ~~[(2)]~~ (8) "State constitutional officer" means the governor, the lieutenant governor, the

469 state auditor, the state treasurer, or the attorney general.

470 Section 6. Section **20A-11-1603** is amended to read:

471 **20A-11-1603. Financial disclosure form -- Required when filing for candidacy --**

472 **Public availability.**

473 (1) Candidates seeking the following offices shall file a financial disclosure with the  
474 filing officer at the time of filing a declaration of candidacy:

475 (a) state constitutional officer;

476 (b) state legislator; or

477 (c) State Board of Education member.

478 (2) A filing officer may not accept a declaration of candidacy for an office listed in  
479 Subsection (1) unless the declaration of candidacy is accompanied by the financial disclosure  
480 required by this section.

481 (3) The financial disclosure form shall contain the same requirements and shall be in  
482 the same format as the financial disclosure form described in Section ~~[76-8-109]~~ 20A-11-1604.

483 (4) The financial disclosure form shall:

484 (a) be made available for public inspection at the filing officer's place of business;

485 (b) if the filing officer is an individual other than the lieutenant governor, be provided  
486 to the lieutenant governor within five business days of the date of filing and be made publicly  
487 available at the Office of the Lieutenant Governor; and

488 (c) be made publicly available on the Statewide Electronic Voter Information Website  
489 administered by the lieutenant governor.

490 Section 7. Section **20A-11-1604**, which is renumbered from Section 76-8-109 is  
491 renumbered and amended to read:

492           ~~[76-8-109].~~    **20A-11-1604.** Failure to disclose conflict of interest -- Failure to  
493 comply with reporting requirements.

494           ~~[(1) As used in this section:]~~

495           ~~[(a) "Conflict of interest" means an action that is taken by a regulated officeholder that~~  
496 ~~the officeholder reasonably believes may cause direct financial benefit or detriment to the~~  
497 ~~officeholder, a member of the officeholder's immediate family, or an entity that the officeholder~~  
498 ~~is required to disclose under the provisions of this section, and that benefit or detriment is~~  
499 ~~distinguishable from the effects of that action on the public or on the officeholder's profession,~~  
500 ~~occupation, or association generally.]~~

501           ~~[(b) "Entity" means a corporation, a partnership, a limited liability company, a limited~~  
502 ~~partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint~~  
503 ~~venture, a governmental entity, an unincorporated organization, or any other legal entity,~~  
504 ~~whether established primarily for the purpose of gain or economic profit or not.]~~

505           ~~[(c) "Filer" means the individual filing a financial declaration under this section.]~~

506           ~~[(d) "Immediate family" means the regulated officeholder's spouse and children living~~  
507 ~~in the officeholder's immediate household.]~~

508           ~~[(e) "Income" means earnings, compensation, or any other payment made to an~~  
509 ~~individual for gain, regardless of source, whether denominated as wages, salary, commission,~~  
510 ~~pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses,~~  
511 ~~reimbursement, dividends, or otherwise.]~~

512           ~~[(f) "Regulated officeholder" means an individual that is required to file a financial~~  
513 ~~disclosure under the provisions and requirements of this section.]~~

514           ~~[(g) "State constitutional officer" means the governor, the lieutenant governor, the state~~  
515 ~~auditor, the state treasurer, or the attorney general.]~~

516           ~~[(2)]~~ (1) (a) Before or during the execution of any order, settlement, declaration,  
517 contract, or any other official act of office in which a state constitutional officer has actual  
518 knowledge that the state constitutional officer has a conflict of interest ~~[which]~~ that is not  
519 stated on the financial disclosure form ~~[required under Subsection (4), the]~~ described in this  
520 section, the state constitutional officer shall publicly declare that the state constitutional officer  
521 may have a conflict of interest and what that conflict of interest is.

522           (b) Before or during any vote on legislation or any legislative matter in which a

523 legislator has actual knowledge that the legislator has a conflict of interest [~~which~~] that is not  
524 stated on the financial disclosure form [~~required under Subsection (4)~~] described in this  
525 section, the legislator shall orally declare to the committee or body before which the matter is  
526 pending that the legislator may have a conflict of interest and what that conflict is.

527 (c) Before or during any vote on any rule, resolution, order, or any other board matter  
528 in which a member of the State Board of Education has actual knowledge that the member has  
529 a conflict of interest [~~which~~] that is not stated on the financial disclosure form [~~required under~~  
530 ~~Subsection (4)~~] described in this section, the member shall orally declare to the board that the  
531 member may have a conflict of interest and what that conflict of interest is.

532 [~~(3)~~] (2) Any public declaration of a conflict of interest that is made under Subsection  
533 [~~(2)~~] (1) shall be noted:

534 (a) on the official record of the action taken, for a state constitutional officer;

535 (b) in the minutes of the committee meeting or in the Senate or House Journal, as  
536 applicable, for a legislator; or

537 (c) in the minutes of the meeting or on the official record of the action taken, for a  
538 member of the State Board of Education.

539 [~~(4) (a) The following individuals shall file a financial disclosure form:~~]

540 [~~(i) a~~] (3) (a) A state constitutional officer[~~, to be due~~] shall file a financial disclosure  
541 form:

542 (i) on the tenth day of January of each year, or the following business day if the due  
543 date falls on a weekend or holiday; and

544 [~~(ii) a legislator, at the following times:~~]

545 (ii) each time the state constitutional officer changes employment.

546 (b) A legislator shall file a financial disclosure form:

547 [~~(A)~~] (i) on the first day of each general session of the Legislature; and

548 [~~(B)~~] (ii) each time the legislator changes employment[~~;~~].

549 [~~(iii) a~~] (c) A member of the State Board of Education[~~, at the following times~~] shall  
550 file a financial disclosure form:

551 [~~(A)~~] (i) on the tenth day of January of each year, or the following business day if the  
552 due date falls on a weekend or holiday; and

553 [~~(B)~~] (ii) each time the member changes employment.

554            ~~[(b)]~~ (4) The financial disclosure form described in Subsection (3) shall include:

555            ~~[(i) the filer's name;]~~

556            (a) the regulated officeholder's name;

557            ~~[(ii)]~~ (b) the name and address of [the filer's primary employer] each of the regulated  
558 officeholder's current employers and each of the regulated officeholder's employers during the  
559 preceding year;

560            ~~[(iii)]~~ (c) for each employer described in Subsection (4)(b), a brief description of the  
561 [filer's] employment, including the [filer's] regulated officeholder's occupation and, as  
562 applicable, job title;

563            ~~[(iv)]~~ (d) for each entity in which the [filer] regulated officeholder is an owner or [an]  
564 officer, or was an owner or officer during the preceding year:

565            ~~[(A)]~~ (i) the name of the entity;

566            ~~[(B)]~~ (ii) a brief description of the type of business or activity conducted by the entity;  
567 and

568            ~~[(C)]~~ (iii) the [filer's] regulated officeholder's position in the entity;

569            ~~[(v)]~~ (e) for each [entity that has paid] individual from whom, or entity from which, the  
570 regulated officeholder has received \$5,000 or more in income [to the filer within the one-year  
571 period ending immediately before the date of the disclosure form] during the preceding year:

572            ~~[(A)]~~ (i) the name of the individual or entity; and

573            ~~[(B)]~~ (ii) a brief description of the type of business or activity conducted by the  
574 individual or entity;

575            ~~[(vi)]~~ (f) for each entity in which the [filer] regulated officeholder holds any stocks or  
576 bonds having a fair market value of \$5,000 or more as of the date of the disclosure form or  
577 during the preceding year, but excluding funds that are managed by a third party, including  
578 blind trusts, managed investment accounts, and mutual funds:

579            ~~[(A)]~~ (i) the name of the entity; and

580            ~~[(B)]~~ (ii) a brief description of the type of business or activity conducted by the entity;

581            ~~[(vii)]~~ (g) for each entity not listed in Subsections ~~[(4)(b)(iv) through (4)(b)(vi)]~~; (4)(d)  
582 through (f) in which the [filer serves] regulated officeholder currently serves, or served in the  
583 preceding year, on the board of directors or in any other type of [formal advisory capacity] paid  
584 leadership capacity:

585           ~~[(A)]~~ (i) the name of the entity or organization;

586           ~~[(B)]~~ (ii) a brief description of the type of business or activity conducted by the entity;

587 and

588           ~~[(C)]~~ (iii) the type of advisory position held by the [filer] regulated officeholder;

589           (h) for each person that the regulated officeholder serves, or served during the

590 preceding year, in a paid advisory or consulting capacity:

591           (i) the name of the person;

592           (ii) a brief description of the type of business or activity conducted by the person; and

593           (iii) a brief description of the nature of the advisory or consulting services provided by

594 the regulated officeholder;

595           ~~[(viii)]~~ (i) at the option of the [filer] regulated officeholder, a description of any real

596 property in which the [filer] regulated officeholder holds an ownership or other financial

597 interest that the [filer] regulated officeholder believes may constitute a conflict of interest,

598 including~~[(A) a description of the real property, and (B)]~~ a description of the type of interest

599 held by the [filer] regulated officeholder in the property;

600           ~~[(ix)]~~ (j) the name of the [filer's] regulated officeholder's spouse and any other adult

601 residing in the [filer's] regulated officeholder's household ~~[that]~~ who is not related by blood or

602 marriage, as applicable;

603           (k) for the regulated officeholder's spouse, the information that a regulated officeholder

604 is required to provide under Subsection (4)(b);

605           ~~[(x)]~~ (l) a brief description of the employment and occupation of ~~[the filer's spouse and~~

606 ~~any other adult residing in the filer's household that]~~ each adult who:

607           (i) resides in the regulated officeholder's household; and

608           (ii) is not related to the regulated officeholder by blood or marriage~~[, as applicable];~~

609           ~~[(xi)]~~ (m) at the option of the [filer] regulated officeholder, a description of any other

610 matter or interest that the [filer] regulated officeholder believes may constitute a conflict of

611 interest;

612           ~~[(xii)]~~ (n) the date the form was completed;

613           ~~[(xiii)]~~ (o) a statement that the [filer] regulated officeholder believes that the form is

614 true and accurate to the best of the [filer's] regulated officeholder's knowledge; and

615           ~~[(xiv)]~~ (p) the signature of the [filer] regulated officeholder.

616 ~~[(e) (i) The financial disclosure shall be filed with:]~~

617 (5) The regulated officeholder shall file the financial disclosure form with:

618 ~~[(A)]~~ (a) the secretary of the Senate, [for a legislator that is a senator] if the regulated  
619 officeholder is a member of the Senate;

620 ~~[(B)]~~ (b) the chief clerk of the House of Representatives, [for a legislator that is a  
621 representative] if the regulated officeholder is a member of the House of Representatives; or

622 ~~[(C)]~~ (c) the lieutenant governor, [for all other regulated officeholders] if the regulated  
623 officeholder is a regulated officeholder other than a regulated officeholder described in  
624 Subsection (5)(a) or (b).

625 ~~[(ii)]~~ (6) The lieutenant governor, the secretary of the Senate, and the chief clerk of the  
626 House of Representatives shall ensure that blank financial disclosure forms are available on the  
627 Internet and at their offices.

628 ~~[(d) Financial disclosure forms that are filed under the procedures and requirements of~~  
629 ~~this section shall be made available to the public:]~~

630 (7) An individual described in Subsection (6) who receives a financial disclosure form  
631 or an amendment to a financial disclosure form under this section shall make each version of  
632 the form, and each amendment to the form, available to the public for the period of time  
633 described in Subsection (8), in the following manner:

634 ~~[(i)]~~ (a) on the Internet; and

635 ~~[(ii)]~~ (b) at the office where the form or the amendment to the form was filed.

636 ~~[(e) This section's requirement to disclose a conflict of interest does]~~

637 (8) The period of time that an individual described in Subsection (7) shall make each  
638 version of a financial disclosure form and each amendment to a financial disclosure form  
639 available to the public is:

640 (a) two years after the day on which the individual described in Subsection (7) receives  
641 the form, for a regulated officeholder in an office that has a normal term of two years or less; or

642 (b) four years after the day on which the individual described in Subsection (7) receives  
643 the form, for a regulated officeholder in an office that has a normal term of more than two  
644 years.

645 (9) The disclosure requirements described in this section do not prohibit a regulated  
646 officeholder from voting or acting on any matter.

647 (10) A regulated officeholder may amend a financial disclosure form described in this  
 648 part at any time.

649 ~~[(5)]~~ (11) A regulated officeholder who violates the requirements of Subsection [(2)]  
 650 (1) is guilty of a class B misdemeanor.

651 (12) ~~H→~~ (a) ~~←H~~ A regulated officeholder who intentionally or knowingly violates a  
 651a provision of  
 652 this section, other than Subsection (1), is ~~H→~~ [~~in addition to any civil penalty imposed under~~  
 653 ~~Section 20A-11-1605;~~ ~~←H~~ guilty of a class B misdemeanor.

653a ~~H→~~ (b) In addition to the criminal penalty described in Subsection (12)(a), the lieutenant  
 653b governor shall impose a civil penalty of \$100 against a regulated officeholder who violates a  
 653c provision of this section, other than Subsection (1). ~~←H~~

654 Section 8. Section 20A-11-1605 is enacted to read:

655 **20A-11-1605. Failure to file -- Penalties.**

656 (1) Within 30 days after the day on which a regulated officeholder is required to file a  
 657 financial disclosure form under Subsection [20A-11-1604](#)(3)(a)(i), (b)(i), or (c)(i), the lieutenant  
 658 governor shall review each filed ~~H→~~ [~~summary report~~] financial disclosure form ~~←H~~ to  
 658a ensure that:

659 (a) each regulated officeholder who is required to file a financial disclosure form has  
 660 filed one; and

661 (b) each financial disclosure form contains the information required under Section  
 662 [20A-11-1604](#).

663 (2) The lieutenant governor shall take the action described in Subsection (3) if:

664 (a) a regulated officeholder has failed to timely file a financial disclosure form;

665 (b) a filed financial disclosure form does not comply with the requirements of Section  
 666 [20A-11-1604](#); or

667 (c) the lieutenant governor receives a written complaint alleging a violation of Section  
 668 [20A-11-1604](#), other than Subsection [20A-11-1604](#)(1), and after receiving the complaint and  
 669 giving the regulated officeholder notice and an opportunity to be heard, the lieutenant governor  
 670 determines that a violation occurred.

671 (3) If a circumstance described in Subsection (2) occurs, the lieutenant governor shall,  
 672 within five days after the day on which the lieutenant governor determines that a violation  
 673 occurred, notify the regulated officeholder of the violation and direct the regulated officeholder  
 674 to file an amended report correcting the problem.

675 (4) (a) It is unlawful for a regulated officeholder to fail to file or amend a financial  
 676 disclosure form within seven days after the day on which the regulated officeholder receives  
 677 the notice described in Subsection (3).

678 (b) A regulated officeholder who violates Subsection (4)(a) is guilty of a class B  
679 misdemeanor.

680 (c) The lieutenant governor shall report all violations of Subsection (4)(a) to the  
681 attorney general.

682 (d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant  
683 governor shall impose a civil fine of \$100 against a regulated officeholder who violates  
684 Subsection (4)(a).

685 (5) The lieutenant governor shall deposit a fine collected under this part into the  
686 General Fund as a dedicated credit to pay for the costs of administering the provisions of this  
687 part.

688 Section 9. Section **20A-12-301.5** is enacted to read:

689 **20A-12-301.5. Disclosure of actual source or recipient required.**

690 (1) As used in this section, "transactional intermediary" means a person, including a  
691 credit card company, a financial institution, or a money transfer service, that pays or transfers  
692 money to a person on behalf of another person.

693 (2) When, under this chapter, a person makes a detailed listing, discloses or reports the  
694 source of a contribution, discloses or reports the person or entity to whom a disbursement is  
695 made, or discloses or reports the identity of a donor, the person:

696 (a) shall reveal the actual source of the contribution, the actual person or entity to  
697 whom the disbursement is ultimately made, or the actual identity of the donor; and

698 (b) may not merely list, disclose, or report the transactional intermediary.

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**Legislative Review Note**  
as of **2-21-14 3:12 PM**

**Office of Legislative Research and General Counsel**