

HB0394S01 compared with HB0394

~~text~~ shows text that was in HB0394 but was deleted in HB0394S01.

text shows text that was not in HB0394 but was inserted into HB0394S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

CAMPAIGN FINANCE REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: ~~_____~~ John L. Valentine

Cosponsor <u>Cosponsors:</u>	<u>Susan Duckworth</u>	<u>Mike K. McKell</u>
Patrice M. Arent { }	<u>Francis D. Gibson</u>	<u>Lee B. Perry</u>
<u>Rebecca Chavez-Houck</u>	<u>Lynn N. Hemingway</u>	<u>Jennifer M. Seelig</u>
<u>Brad L. Dee</u>	<u>Dana L. Layton</u>	

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires that a financial report include expenditures made by a reporting entity or an

HB0394S01 compared with HB0394

agent (including a political consultant) of a reporting entity on behalf of the reporting entity;

- ▶ provides that "contribution" includes a loan by a candidate to the candidate's own campaign;
- ▶ defines "in-kind" contributions;
- ▶ provides that when a person makes a detailed listing that discloses or reports the source of a contribution, discloses or reports the person or entity to whom a disbursement is made, or discloses or reports the identity of a donor, the person:
 - shall reveal the actual source of the contribution, the actual person or entity to whom the disbursement is ultimately made, or the actual identity of the donor; and
 - may not merely list, disclose, or report the transactional intermediary;
- ▶ modifies required filing dates for a financial disclosure form filed by a regulated officeholder;
- ▶ modifies and expands the information that a regulated officeholder is required to disclose in a financial disclosure form, including:
 - ~~information for the year preceding the day on which the regulated officeholder files a financial disclosure form; and~~
 - ~~information relating to paid advisory or consultant services provided by the regulated officeholder;~~
- ▶ expands disclosure provisions to include a regulated officeholder's involvement in limited liability corporations and other entities;
- ▶ clarifies that a regulated officeholder may file an amended financial disclosure form at any time;
- ▶ addresses the publication and retention of financial disclosure forms;
- ▶ establishes criminal and civil penalties for violating certain provisions of this bill relating to the filing or content of a financial disclosure form;
- ▶ describes duties of the lieutenant governor for reviewing a financial disclosure form and enforcing the provisions of this bill;
- ▶ provides that the lieutenant governor shall deposit a fine collected under this bill into the General Fund as a dedicated credit to pay for the costs of administering the

HB0394S01 compared with HB0394

provisions of this bill; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

ENACTS:

20A-11-101.3, Utah Code Annotated 1953

20A-11-101.5, Utah Code Annotated 1953

20A-11-1605, Utah Code Annotated 1953

20A-12-301.5, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

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

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

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

20A-11-101. Definitions.

As used in this chapter:

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

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

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

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

HB0394S01 compared with HB0394

reporting entity:

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

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

(e) a political consultant of a reporting entity.

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

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

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

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

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

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

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

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

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

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

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

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

(v) remuneration from:

HB0394S01 compared with HB0394

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

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

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

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

(vii) in-kind contributions.

(b) "Contribution" does not include:

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

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

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

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

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

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

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

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

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

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

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

(b) "Corporation" does not mean:

HB0394S01 compared with HB0394

- (i) a business organization's political action committee or political issues committee; or
- (ii) a business entity organized as a partnership or a sole proprietorship.

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

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

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

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

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

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

(b) for each expenditure:

(i) the amount of the expenditure;

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

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

(iv) the date the expenditure was made.

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

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

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

(a) regular general election;

(b) regular primary election; and

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

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

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

(b) clearly identifies a candidate or judge; and

HB0394S01 compared with HB0394

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

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

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

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

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

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

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

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

(b) "Expenditure" does not include:

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

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

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

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

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

~~[(17)]~~ (18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts,

HB0394S01 compared with HB0394

donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

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

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

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

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

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

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

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

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

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

(a) files a declaration of candidacy for the office of state senator or state representative;
(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

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

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

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

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

~~[(29)]~~ (31) "Person" means both natural and legal persons, including individuals,

HB0394S01 compared with HB0394

business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

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

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

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

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

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

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

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

(i) a party committee;

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

(iii) an individual;

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

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

(vi) a personal campaign committee.

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

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

HB0394S01 compared with HB0394

(i) has already been paid, with money or other consideration;
(ii) expects to be paid in the future, with money or other consideration; or
(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

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

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

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

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

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

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

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

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

(iii) an individual;

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

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

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

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

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

HB0394S01 compared with HB0394

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

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

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

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

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

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

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

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

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

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

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

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

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

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

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

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

HB0394S01 compared with HB0394

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

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

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

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

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

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

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

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

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

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

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all

HB0394S01 compared with HB0394

of their time on behalf of an officeholder;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HB0394S01 compared with HB0394

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

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

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

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

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

~~[(49)]~~ (52) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

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

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

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

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

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

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

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

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

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

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

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

The director of elections, within the Lieutenant Governor's Office, may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in relation to the

HB0394S01 compared with HB0394

form, type, and level of detail required in a detailed listing.

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

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

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

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

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

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

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

Part 16. Financial Disclosures

20A-11-1601. Title.

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

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

20A-11-1602. Definitions.

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

As used in this part:

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

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

(3) "Immediate family" means the regulated officeholder's spouse, a child living in the

HB0394S01 compared with HB0394

regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

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

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

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

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

(b) "Owner or officer" includes:

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

(ii) a partner in any type of partnership.

(6) "Preceding year" means the year immediately preceding the day on which the regulated officeholder files a financial disclosure form.

(7) "Regulated officeholder" means an individual who is required to file a financial disclosure form under the provisions of this part.

~~(2)~~ (8) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

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

20A-11-1603. Financial disclosure form -- Required when filing for candidacy -- Public availability.

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

(a) state constitutional officer;

(b) state legislator; or

(c) State Board of Education member.

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

HB0394S01 compared with HB0394

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

(4) The financial disclosure form shall:

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

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

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

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

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

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

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

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

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

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

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

HB0394S01 compared with HB0394

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

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

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

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

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

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

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

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

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

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

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

~~(i) on the tenth day of January of each year, or the following business day if the due~~

HB0394S01 compared with HB0394

date falls on a weekend or holiday; and

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

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

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

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

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

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

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

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

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

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

(a) the regulated officeholder's name;

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

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

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

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

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

and

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

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

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

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

HB0394S01 compared with HB0394

individual or entity;

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

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

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

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

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

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

and

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

~~{~~ (h) for each person that the regulated officeholder serves, or served during the preceding year, in a paid advisory or consulting capacity:

~~——~~ (i) the name of the person;

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

~~——~~ (iii) a brief description of the nature of the advisory or consulting services provided by the regulated officeholder;

~~†~~ ~~[(viii)]~~ ~~(f)(h)~~ at the option of the [filer] regulated officeholder, a description of any real property in which the [filer] regulated officeholder holds an ownership or other financial interest that the [filer] regulated officeholder believes may constitute a conflict of interest, including~~[(A) a description of the real property; and (B)]~~ a description of the type of interest held by the [filer] regulated officeholder in the property;

~~[(ix)]~~ ~~(f)(i)~~ the name of the [filer's] regulated officeholder's spouse and any other adult residing in the [filer's] regulated officeholder's household [that] who is not related by blood or marriage, as applicable;

~~(f)(i)~~ for the regulated officeholder's spouse, the information that a regulated officeholder is required to provide under Subsection (4)(b);

HB0394S01 compared with HB0394

~~[(x)]~~ ~~(~~fk~~)~~ a brief description of the employment and occupation of ~~[the filer's spouse and any other adult residing in the filer's household that]~~ each adult who:

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

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

~~[(xi)]~~ ~~(~~ml~~)~~ at the option of the ~~[filer]~~ regulated officeholder, a description of any other matter or interest that the ~~[filer]~~ regulated officeholder believes may constitute a conflict of interest;

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

~~[(xiii)]~~ ~~(~~on~~)~~ a statement that the ~~[filer]~~ regulated officeholder believes that the form is true and accurate to the best of the ~~[filer's]~~ regulated officeholder's knowledge; and

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

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

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

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

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

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

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

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

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

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

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

HB0394S01 compared with HB0394

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HB0394S01 compared with HB0394

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

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

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

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

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

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

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

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

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

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

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

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

(2) When, under this chapter, a person makes a detailed listing, discloses or reports the source of a contribution, discloses or reports the person or entity to whom a disbursement is

HB0394S01 compared with HB0394

made, or discloses or reports the identity of a donor, the person:

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

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

†

Legislative Review Note

~~as of 2-21-14 3:12 PM~~

~~Office of Legislative Research and General Counsel~~; Section 10. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.