

**FINANCIAL DISCLOSURE MODIFICATIONS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mike K. McKell**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the information that a regulated officeholder is required to disclose on a financial disclosure form.

**Highlighted Provisions:**

This bill:

► modifies the information that a regulated officeholder is required to disclose on a financial disclosure form.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-11-1602**, as last amended by Laws of Utah 2014, Chapter 18

**20A-11-1604**, as renumbered and amended by Laws of Utah 2014, Chapter 18

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

Section 1. Section **20A-11-1602** is amended to read:

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

As used in this part:



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

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

38 (3) "Executive action" means the same as that term is defined in [Section 36-11-102](#).

39 ~~(3)~~ (4) "Immediate family" means the regulated officeholder's spouse, a child living  
40 in the regulated officeholder's immediate household, or an individual claimed as a dependent  
41 for state or federal income tax purposes by the regulated officeholder.

42 ~~(4)~~ (5) "Income" means earnings, compensation, or any other payment made to an  
43 individual for gain, regardless of source, whether denominated as wages, salary, commission,  
44 pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses,  
45 reimbursement, dividends, or otherwise.

46 (6) "Legislative action" means the same as that term is defined in [Section 36-11-102](#).

47 (7) "Lobbying" means the same as that term is defined in [Section 36-11-102](#).

48 ~~(5)~~ (8) (a) "Owner or officer" means an individual who owns an ownership interest in  
49 an entity or holds a position where the person has authority to manage, direct, control, or make  
50 decisions for:

- 51 (i) the entity or a portion of the entity; or
- 52 (ii) an employee, agent, or independent contractor of the entity.
- 53 (b) "Owner or officer" includes:
  - 54 (i) a member of a board of directors or other governing body of an entity; or
  - 55 (ii) a partner in any type of partnership.

56 ~~(6)~~ (9) "Preceding year" means the year immediately preceding the day on which the  
57 regulated officeholder files a financial disclosure form.

58 ~~(7)~~ (10) "Regulated officeholder" means an individual who is required to file a

59 financial disclosure form under the provisions of this part.

60 [~~(8)~~] (11) "State constitutional officer" means the governor, the lieutenant governor,  
61 the state auditor, the state treasurer, or the attorney general.

62 Section 2. Section **20A-11-1604** is amended to read:

63 **20A-11-1604. Failure to disclose conflict of interest -- Failure to comply with**  
64 **reporting requirements.**

65 (1) (a) Before or during the execution of any order, settlement, declaration, contract, or  
66 any other official act of office in which a state constitutional officer has actual knowledge that  
67 the state constitutional officer has a conflict of interest that is not stated on the financial  
68 disclosure form described in this section, the state constitutional officer shall publicly declare  
69 that the state constitutional officer may have a conflict of interest and what that conflict of  
70 interest is.

71 (b) Before or during any vote on legislation or any legislative matter in which a  
72 legislator has actual knowledge that the legislator has a conflict of interest that is not stated on  
73 the financial disclosure form described in this section, the legislator shall orally declare to the  
74 committee or body before which the matter is pending that the legislator may have a conflict of  
75 interest and what that conflict is.

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

81 (2) Any public declaration of a conflict of interest that is made under Subsection (1)  
82 shall be noted:

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

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

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

88 (3) (a) A state constitutional officer shall file a financial disclosure form:

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

90 date falls on a weekend or holiday; and

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

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

93 (i) on the first day of each general session of the Legislature; and

94 (ii) each time the legislator changes employment.

95 (c) A member of the State Board of Education shall file a financial disclosure form:

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

98 (ii) each time the member changes employment.

99 (4) The financial disclosure form described in Subsection (3) shall include:

100 (a) the regulated officeholder's name;

101 (b) the name and address of each of the regulated officeholder's current employers and  
102 each of the regulated officeholder's employers during the preceding year;

103 (c) for each employer described in Subsection (4)(b)~~];~~];

104 (i) a brief description of the employment, including the regulated officeholder's  
105 occupation and, as applicable, job title; and

106 (ii) to the best of the regulated officeholder's knowledge, the month and year in which  
107 the regulated officeholder's employment began;

108 (d) for each entity in which the regulated officeholder is an owner or officer, or was an  
109 owner or officer during the preceding year:

110 (i) the name of the entity;

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

112 (iii) the regulated officeholder's position in the entity; and

113 (iv) to the best of the regulated officeholder's knowledge, the month and year in which  
114 the regulated officeholder became an owner or officer for the entity;

115 (e) in accordance with Subsection (5)(b), for each individual from whom, or entity  
116 from which, the regulated officeholder has received \$5,000 or more in income during the  
117 preceding year:

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

119 (ii) a brief description of the type of business or activity conducted by the individual or  
120 entity; and

121 (iii) to the best of the regulated officeholder's knowledge, the month and year in which  
122 the regulated officeholder first received income from the individual or entity;

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

127 (i) the name of the entity; and

128 (ii) a brief description of the type of business or activity conducted by the entity;

129 (g) the name of, and a brief description of the type of business or activity conducted by,  
130 each individual or entity that has paid the regulated officeholder during the preceding year for  
131 lobbying or consulting in relation to legislative action or executive action;

132 [~~(g)~~] (h) for each entity not listed in Subsections (4)(d) through [~~(f)~~] (g) in which the  
133 regulated officeholder currently serves, or served in the preceding year, on the board of  
134 directors or in any other type of paid leadership capacity:

135 (i) the name of the entity or organization;

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

137 (iii) the type of advisory position held by the regulated officeholder; and

138 (iv) to the best of the regulated officeholder's knowledge, the month and year in which  
139 the regulated officeholder accepted a position on the board of directors or a paid leadership  
140 capacity position;

141 [~~(h)~~] (i) at the option of the regulated officeholder, a description of any real property in  
142 which the regulated officeholder holds an ownership or other financial interest that the  
143 regulated officeholder believes may constitute a conflict of interest, including a description of  
144 the type of interest held by the regulated officeholder in the property;

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

147 [~~(j)~~] (k) for the regulated officeholder's spouse, the information that a regulated  
148 officeholder is required to provide under Subsection (4)(b);

149 [~~(k)~~] (l) a brief description of the employment and occupation of each adult who:

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

151 (ii) is not related to the regulated officeholder by blood or marriage;

152           ~~(t)~~ (m) at the option of the regulated officeholder, a description of any other matter or  
153 interest that the regulated officeholder believes may constitute a conflict of interest;

154           ~~(m)~~ (n) the date the form was completed;

155           ~~(n)~~ (o) a statement that the regulated officeholder believes that the form is true and  
156 accurate to the best of the regulated officeholder's knowledge; and

157           ~~(o)~~ (p) the signature of the regulated officeholder.

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

159           (i) the secretary of the Senate, if the regulated officeholder is a member of the Senate;

160           (ii) the chief clerk of the House of Representatives, if the regulated officeholder is a  
161 member of the House of Representatives; or

162           (iii) the lieutenant governor, if the regulated officeholder is a regulated officeholder  
163 other than a regulated officeholder described in Subsection (5)(a)(i) or (ii).

164           (b) In making the disclosure described in Subsection (4)(e), a regulated officeholder  
165 who provides goods or services to multiple customers or clients as part of a business or a  
166 licensed profession is only required to provide the information described in Subsection (4)(e) in  
167 relation to the entity or practice through which the regulated officeholder provides the goods or  
168 services and is not required to provide the information described in Subsection (4)(e) in  
169 relation to the regulated officeholder's individual customers or clients.

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

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

177           (a) on the Internet; and

178           (b) at the office where the form or the amendment to the form was filed.

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

182           (a) two years after the day on which the individual described in Subsection (7) receives

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

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

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

191 (11) A regulated officeholder who violates the requirements of Subsection (1) is guilty  
192 of a class B misdemeanor.

193 (12) (a) A regulated officeholder who intentionally or knowingly violates a provision  
194 of this section, other than Subsection (1), is guilty of a class B misdemeanor.

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

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**