

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 609

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC OFFICER AND CANDIDATE POTENTIAL CONFLICT DISCLOSURES;  
2 AMENDING TITLE 74, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 3, TITLE  
3 74, IDAHO CODE, TO REQUIRE REGULATED OFFICEHOLDERS AND CANDIDATES TO  
4 FILE POTENTIAL CONFLICT DISCLOSURES, TO DEFINE TERMS, TO PROVIDE FOR  
5 REQUIRED CONTENT, TO PROVIDE DEADLINES, TO PROVIDE FOR PUBLIC DISCLO-  
6 SURE, TO PROVIDE FOR A RECORD RETENTION PERIOD, TO PROVIDE FOR PENALTIES  
7 FOR FAILURE TO FILE, TO REQUIRE DECLARATIONS OF A CONFLICT OF INTEREST  
8 AND TO PROVIDE A PENALTY AND TO REQUIRE LINKS TO POTENTIAL CONFLICT  
9 DISCLOSURE FORMS FROM THE LEGISLATURE'S WEBSITE; AND PROVIDING AN EF-  
10 FECTIVE DATE.  
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Title 74, Idaho Code, be, and the same is hereby amended  
14 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
15 ter 3, Title 74, Idaho Code, and to read as follows:

16 CHAPTER 3  
17 POTENTIAL CONFLICT DISCLOSURES

18 74-301. DEFINITIONS. As used in this chapter:

19 (1) "City officer" means a mayor or city council member.

20 (2) "Potential conflict" means a potential action that may be taken by a  
21 regulated officeholder that the officeholder reasonably believes may cause  
22 direct financial or personal benefit or detriment to the officeholder, a  
23 member of the officeholder's immediate family or an entity that the office-  
24 holder is required to disclose under the provisions of this chapter, if that  
25 benefit or detriment is distinguishable from the effects of that action on  
26 the public or on the officeholder's profession, occupation or association  
27 generally.

28 (3) "County officer" means a county commissioner, county prosecutor,  
29 county treasurer, county assessor, county coroner or county sheriff.

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

36 (5) "Immediate family" means the regulated officeholder's spouse, a  
37 child living in the regulated officeholder's immediate household, or an in-  
38 dividual claimed as a dependent for state or federal income tax purposes by  
39 the regulated officeholder.

1 (6) (a) "Owner or officer" means an individual who owns an ownership in-  
 2 terest in an entity or holds a position where the person has authority to  
 3 manage, direct, control or make decisions for:

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

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

6 (b) "Owner or officer" includes:

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

9 (ii) A partner in any type of partnership.

10 (7) "Preceding year" means the year immediately preceding the day on  
 11 which the regulated officeholder files a potential conflict disclosure  
 12 form.

13 (8) "Regulated officeholder" means an individual who is required to  
 14 file a potential conflict disclosure form under the provisions of this chap-  
 15 ter.

16 (9) "State constitutional officer" means the governor, the lieutenant  
 17 governor, the state controller, the state treasurer, the secretary of state,  
 18 the superintendent of public instruction or the attorney general.

19 74-302. POTENTIAL CONFLICT DISCLOSURES -- CANDIDATES. (1) Candi-  
 20 dates shall file a potential conflict disclosure form with the secretary  
 21 of state's office at the time of filing a declaration of candidacy for the  
 22 following offices:

23 (a) State constitutional officer;

24 (b) State legislator;

25 (c) County officer; or

26 (d) City officer.

27 (2) The secretary of state may not accept a declaration of candidacy for  
 28 an office listed in subsection (1) of this section unless the declaration of  
 29 candidacy is accompanied by the potential conflict disclosure required un-  
 30 der this chapter.

31 (3) The potential conflict disclosure form shall meet the requirements  
 32 of section 74-303, Idaho Code.

33 (4) Completed potential conflict disclosure forms, including any  
 34 amendments, shall be made available for public inspection at the secretary  
 35 of state's office and on the secretary of state's website.

36 74-303. POTENTIAL CONFLICT DISCLOSURES -- REGULATED OFFICEHOLD-  
 37 ERS. (1) A state constitutional officer, state legislator, county officer  
 38 or city officer shall file a potential conflict disclosure form:

39 (a) On the tenth day of January of each year, or the following business  
 40 day if the due date falls on a weekend or holiday; and

41 (b) Each time that the officer changes employment.

42 (2) A regulated officeholder may amend a potential conflict disclosure  
 43 form at any time.

44 (3) The potential conflict disclosure form shall include:

45 (a) The regulated officeholder's name;

46 (b) The name and address of each of the regulated officeholder's cur-  
 47 rent employers and each of the regulated officeholder's employers dur-  
 48 ing the preceding year;

1 (c) For each employer described in paragraph (b) of this subsection,  
 2 a brief description of the employment, including the regulated office-  
 3 holder's occupation and, as applicable, job title;

4 (d) For each entity in which the regulated officeholder is an owner or  
 5 officer, or was an owner or officer, during the preceding year:

6 (i) The name of the entity;

7 (ii) A brief description of the type of business or activity con-  
 8 ducted by the entity; and

9 (iii) The regulated officeholder's position in the entity;

10 (e) For each entity in which the regulated officeholder holds any  
 11 stocks or bonds having a fair market value of five thousand dollars  
 12 (\$5,000) or more as of the date of the disclosure form or during the  
 13 preceding year, but excluding funds that are managed by a third party,  
 14 including blind trusts, managed investment accounts and mutual funds:

15 (i) The name of the entity; and

16 (ii) A brief description of the type of business or activity con-  
 17 ducted by the entity;

18 (f) The date the form was completed;

19 (g) A statement that the regulated officeholder believes that the form  
 20 is true and accurate to the best of the regulated officeholder's knowl-  
 21 edge; and

22 (h) The signature of the regulated officeholder.

23 (4) The secretary of state, the secretary of the senate and the chief  
 24 clerk of the house of representatives shall ensure that blank potential con-  
 25 flict disclosure forms are available on the internet and at their offices.

26 (5) The completed potential conflict disclosure forms and amendments  
 27 to forms shall be available to the public for:

28 (a) Two (2) years after the day on which the secretary of state receives  
 29 the form, for a regulated officeholder in an office that has a normal  
 30 term of two (2) years or less; or

31 (b) Four (4) years after the day on which the secretary of state re-  
 32 ceives the form, for a regulated officeholder in an office that has a  
 33 normal term of more than two (2) years.

34 (6) The disclosure requirements described in this section do not pro-  
 35 hibit a regulated officeholder from voting or acting on any matter.

36 74-304. FAILURE TO FILE -- PENALTIES. (1) Within thirty (30) days af-  
 37 ter the day on which a regulated officeholder is required to file a potential  
 38 conflict disclosure form under section 74-303(1) (a), Idaho Code, the secre-  
 39 tary of state shall review each filed potential conflict disclosure form to  
 40 ensure that:

41 (a) Each regulated officeholder who is required to file a potential  
 42 conflict disclosure form has done so; and

43 (b) Each potential conflict disclosure form contains the information  
 44 required under section 74-303, Idaho Code.

45 (2) The secretary of state shall take the action described in subsec-  
 46 tion (3) of this section if:

47 (a) A regulated officeholder has failed to file a potential conflict  
 48 disclosure form in a timely manner;

1 (b) A filed potential conflict disclosure form does not comply with the  
2 requirements of section 74-303, Idaho Code; or

3 (c) The secretary of state receives a written complaint alleging a vio-  
4 lation of section 74-303, Idaho Code, and after receiving the complaint  
5 and giving the regulated officeholder notice and an opportunity to be  
6 heard, the secretary of state determines that a violation occurred.

7 (3) If the secretary of state determines that a violation occurred, he  
8 shall, within five (5) days of his determination, notify the regulated of-  
9 ficeholder of the violation and direct the regulated officeholder to file an  
10 amended report correcting the violation, along with a civil penalty of two  
11 hundred fifty dollars (\$250).

12 (4) (a) It is unlawful for a regulated officeholder to fail to file or  
13 amend a potential conflict disclosure form within seven (7) days after  
14 the day on which the regulated officeholder receives the notice de-  
15 scribed in subsection (3) of this section.

16 (b) A regulated officeholder who violates paragraph (a) of this subsec-  
17 tion shall pay a civil penalty of five hundred dollars (\$500).

18 (5) The secretary of state shall deposit any penalty collected under  
19 this section to the general fund.

20 74-305. CONFLICT OF INTEREST DECLARATION -- VIOLATIONS. (1) Before or  
21 during the execution of any order, settlement, declaration, contract or any  
22 other official act of office in which a state constitutional officer, county  
23 officer or city officer has actual knowledge that he has a conflict of inter-  
24 est that is not stated on the potential conflict disclosure form filed under  
25 section 74-303, Idaho Code, the officer shall publicly declare that he may  
26 have a conflict of interest and shall describe the potential conflict of in-  
27 terest.

28 (2) Before or during any vote on legislation or any legislative matter  
29 in which a legislator, city officer or county officer has actual knowledge  
30 that he has a conflict of interest that is not stated on the potential con-  
31 flict disclosure form filed under section 74-303, Idaho Code, the legisla-  
32 tor or officer shall orally declare to the committee or body before which the  
33 matter is pending that he may have a conflict of interest and shall describe  
34 the potential conflict of interest.

35 (3) Any public declaration of a conflict of interest that is made under  
36 subsection (1) or (2) of this section shall be noted:

37 (a) On the official record of the action taken, for a state constitu-  
38 tional officer, county officer or city officer; or

39 (b) In the minutes of the committee meeting or in the senate or house  
40 journal, as applicable, for a legislator.

41 (4) The secretary of state shall impose a civil penalty of two hundred  
42 fifty dollars (\$250) against a regulated officeholder who violates a provi-  
43 sion of this section. The civil penalty shall be doubled if the secretary of  
44 state finds that the violation was knowing or intentional.

45 (5) The secretary of state shall deposit any penalty collected under  
46 this section to the general fund.

47 74-306. LINK TO REPORTS ON LEGISLATURE'S WEBSITE. The legislature's  
48 website shall include, for each legislative officeholder, a link to the po-

1     tentia] conflict reports maintained on the secretary of state's website that  
2     relate to that legislative officeholder.

3             SECTION 2. This act shall be in full force and effect on and after July  
4     1, 2019.