

IN THE SENATE

SENATE BILL NO. 1026

BY KELLY, WERK, BOCK, LEFAVOUR, BILYEU, SAGNESS, THORSON

AN ACT

1 RELATING TO COMPREHENSIVE CAMPAIGN FINANCE REFORM; AMENDING  
2 TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 26, TITLE  
3 34, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO  
4 PROVIDE AN ALTERNATIVE CAMPAIGN FINANCING OPTION, TO CREATE  
5 THE IDAHO FAIR ELECTIONS ACT TRUST FUND AND SPECIFY SOURCES OF  
6 FUNDING, TO SPECIFY THE TERMS OF PARTICIPATION IN THE IDAHO FAIR  
7 ELECTIONS ACT CANDIDATE PROCESS, TO GOVERN THE ADMINISTRATION  
8 OF THE IDAHO FAIR ELECTIONS ACT, TO PROVIDE VIOLATIONS AND TO  
9 REQUIRE A STUDY REPORT TO THE LEGISLATURE; AMENDING CHAPTER 32,  
10 TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3201H,  
11 IDAHO CODE, TO PROVIDE AN ADDITIONAL PENALTY ON ANY CIVIL  
12 PENALTY FOR PURPOSES OF THE IDAHO FAIR ELECTIONS ACT TRUST FUND;  
13 AMENDING SECTION 67-6607, IDAHO CODE, TO CHANGE THE ALLOWABLE  
14 CONTRIBUTION TO CANDIDATES AND TO MAKE TECHNICAL CORRECTIONS;  
15 AMENDING SECTION 67-6625, IDAHO CODE, TO INCREASE FINES FOR  
16 VIOLATION OF CAMPAIGN CONTRIBUTION REPORTING PROVISIONS, TO  
17 DEDICATE RECEIPTS TO THE IDAHO FAIR ELECTIONS ACT TRUST FUND AND  
18 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6625A, IDAHO  
19 CODE, TO INCREASE THE FINE FOR LATE FILING OF REPORTS, TO DEDICATE  
20 RECEIPTS TO THE IDAHO FAIR ELECTIONS ACT TRUST FUND AND TO MAKE  
21 A TECHNICAL CORRECTION; AMENDING TITLE 67, IDAHO CODE, BY THE  
22 ADDITION OF A NEW CHAPTER 84, TITLE 67, IDAHO CODE, TO CREATE  
23 THE COMMISSION ON FAIR ELECTION PRACTICES, TO DEFINE TERMS,  
24 TO PROVIDE THE POWERS AND DUTIES OF THE COMMISSION ON FAIR  
25 ELECTION PRACTICES AND TO PROVIDE THE SOURCE OF FUNDING FOR THE  
26 COMMISSION; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE,  
27 REFERENCING EFFECTIVE DATES INCORPORATED IN SECTIONS OF LAW AND  
28 PROVIDING A SUNSET DATE.  
29

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

31 SECTION 1. That Title 34, Idaho Code, be, and the same is hereby amended by the  
32 addition thereto of a NEW CHAPTER, to be known and designated as Chapter 26, Title 34,  
33 Idaho Code, and to read as follows:

34 CHAPTER 26  
35 IDAHO FAIR ELECTIONS ACT

36 34-2601. SHORT TITLE. This chapter may be known and cited as the "Idaho Fair  
37 Elections Act."

1 34-2602. DEFINITIONS. As used in this chapter:

2 (1) "Certified candidate" means a candidate in Idaho running for statewide office, state  
3 senator or state representative who chooses to participate in the Idaho fair elections act and who  
4 has met the requirements in section 34-2605, Idaho Code, to become a certified candidate.

5 (2) "Commission" means the commission on fair election practices within the office of  
6 the secretary of state established by chapter 84, title 67, Idaho Code.

7 (3) "Contribution" means the same as in the definition of "contribution" in section  
8 67-6602, Idaho Code.

9 (4) "Nonparticipating candidate" means a candidate running for statewide office, state  
10 senator or state representative who does not choose to participate in the Idaho fair elections act  
11 and who is not seeking to be certified as an Idaho fair elections act candidate under section  
12 34-2605, Idaho Code.

13 (5) "Participating candidate" means a candidate running for statewide office, state senator  
14 or state representative who is seeking to be certified as an Idaho fair elections act candidate  
15 under section 34-2605, Idaho Code.

16 (6) "Qualifying contribution" means a donation:

17 (a) Of five dollars (\$5.00) in the form of a check, money order or cash, if accompanied  
18 by a receipt with the name and address of the contributor and signed by the contributor,  
19 payable to the trust fund in support of a candidate;

20 (b) Made by a qualified elector within the state of Idaho and, in the case of a candidate  
21 for state senator or state representative, within the legislative district of the candidate;

22 (c) Made during the qualifying period and obtained with the knowledge and approval of  
23 the participating candidate; and

24 (d) That is acknowledged by a written receipt providing the name and address of the  
25 donor on a form provided by the commission.

26 (7) "Qualifying period" means:

27 (a) For a participating candidate for statewide office the qualifying period begins  
28 November 1 immediately preceding the election year and ends at 5:00 p.m. on the tenth  
29 Friday preceding the primary election;

30 (b) For a participating candidate for state senator or state representative, the qualifying  
31 period begins on January 1 of the election year and ends at 5:00 p.m. on the tenth Friday  
32 preceding the primary election.

33 (8) "Seed money contribution" means a contribution of not more than one hundred  
34 dollars (\$100) per individual made to a candidate, including every contribution from the  
35 candidate or the candidate's family. To be eligible for certification, a candidate may collect  
36 and spend only seed money contributions subsequent to becoming a participating candidate  
37 as defined in this chapter and throughout the qualifying period. A candidate may not collect  
38 or spend seed money contributions after certification as an Idaho fair elections act candidate.  
39 The primary purpose of a seed money contribution is to enable a participating candidate to  
40 collect qualifying contributions. A seed money contribution must be reported according to the  
41 procedures developed by the commission.

42 (9) "Statewide office" means the office of governor, lieutenant governor, secretary  
43 of state, attorney general, state treasurer, state controller and state superintendent of public  
44 instruction.

45 (10) "Trust fund" means the Idaho fair elections act trust fund established in section  
46 34-2604, Idaho Code.

1           34-2603. ALTERNATIVE CAMPAIGN FINANCING OPTION. This chapter  
 2 establishes a voluntary alternative campaign financing option available to candidates running  
 3 for statewide office, state senator or state representative. This alternative campaign financing  
 4 option is available to candidates for elections to be held beginning in the year 2012, if the  
 5 commission determines that there are sufficient funds in the trust fund to provide a reasonable  
 6 level of funding for the anticipated number of candidates who may qualify to run under this  
 7 chapter. If sufficient funds exist in the trust fund to provide funding for the anticipated number  
 8 of candidates who may qualify to run under this chapter for some, but not all, offices covered  
 9 by this chapter, the commission shall determine which offices shall receive the funding that  
 10 year and which shall wait until subsequent election years, based on the following priority:  
 11 Idaho state house of representatives, all seats; Idaho state senate, all seats; lieutenant governor;  
 12 governor; attorney general; secretary of state; state superintendent of public instruction; state  
 13 controller; state treasurer. The commission shall administer this chapter and the trust fund.  
 14 Candidates participating in this chapter must also comply with all other election and campaign  
 15 laws and rules and regulations.

16           34-2604. IDAHO FAIR ELECTIONS ACT TRUST FUND ESTABLISHED –  
 17 SOURCES OF FUNDING. (1) The Idaho fair elections act trust fund is established to finance  
 18 the election campaigns of certified candidates and to pay administrative and enforcement costs  
 19 of the commission related to this chapter. The trust fund is a special, nonlapsing fund and  
 20 any interest generated by the fund shall be credited to the fund. The commission shall keep  
 21 a record of all moneys deposited in the trust fund that shall indicate the source from which  
 22 the moneys are derived, the interest earned and the activity or program against which any  
 23 withdrawal is charged.

24           (2) The following must be deposited into the trust fund:

- 25           (a) The qualifying contributions required under section 34-2605, Idaho Code, and
- 26           any excess qualifying contributions when those contributions are submitted to the
- 27           commission;
- 28           (b) Seed money contributions collected pursuant to section 34-2605, Idaho Code,
- 29           remaining unspent after a candidate has become a certified candidate;
- 30           (c) Trust fund revenues distributed to an Idaho fair elections act candidate and remaining
- 31           unspent after the candidate has lost a primary election or after the general election;
- 32           (d) Other unspent funds distributed to any Idaho fair elections act candidate who does
- 33           not remain a candidate throughout a primary or general election cycle;
- 34           (e) Voluntary donations made directly to the trust fund;
- 35           (f) Fines collected under sections 34-2607, 67-6625 and 67-6625A, Idaho Code;
- 36           (g) Revenue from a surcharge on civil assessments in the district courts of Idaho pursuant
- 37           to section 31-3201H, Idaho Code; and
- 38           (h) Any other funds as designated by the legislature.

39           (3) By October 1 preceding each election year, the commission shall publish an estimate  
 40 of the funds in the trust fund available for distribution to the certified candidates during the  
 41 upcoming year's election, and shall state whether some or all of the offices shall be qualified to  
 42 receive funding as provided in section 34-2603, Idaho Code.

43           (4) All moneys placed in the trust fund are hereby perpetually appropriated to the  
 44 secretary of state for administration and allocation as provided in this chapter. All expenditures  
 45 from the trust fund shall be paid out in warrants drawn by the state controller upon presentation

1 of proper vouchers from the secretary of state. The provisions of section 67-3516(3) and (4),  
2 Idaho Code, are hereby specifically declared not to apply to the administration of the trust fund.

3 34-2605. TERMS OF PARTICIPATION. (1) A participating candidate must file a  
4 declaration of intent to seek certification as an Idaho fair elections act candidate and comply  
5 with the requirements of this chapter. The declaration of intent must be filed with the  
6 commission prior to or during the qualifying period, except as provided in subsection (14) of  
7 this section, according to forms and procedures developed by the commission. A participating  
8 candidate must submit a declaration of intent prior to collecting qualifying contributions under  
9 this chapter.

10 (2) Subsequent to becoming a candidate as defined in section 67-6602, Idaho Code, and  
11 prior to certification, a participating candidate may not accept contributions, except for seed  
12 money contributions. A participating candidate must limit the candidate's total seed money  
13 contributions to the following amounts:

- 14 (a) Fifty thousand dollars (\$50,000) for a candidate for statewide office;
- 15 (b) One thousand dollars (\$1,000) for a candidate for state senator;
- 16 (c) One thousand dollars (\$1,000) for a candidate for state representative.

17 (3) Participating candidates must obtain qualifying contributions during the qualifying  
18 period as follows:

- 19 (a) For a candidate for governor at least two thousand five hundred (2,500) qualified  
20 electors of the state of Idaho must support the candidacy by providing a qualifying  
21 contribution to that candidate;
- 22 (b) For a candidate for all other statewide offices at least one thousand five hundred  
23 (1,500) qualified electors of the state of Idaho must support the candidacy by providing a  
24 qualifying contribution to that candidate;
- 25 (c) For a candidate for state senate or state house of representatives at least one hundred  
26 fifty (150) qualified electors from the candidate's legislative district must support the  
27 candidacy by providing a qualifying contribution to that candidate. A payment, gift or  
28 anything of value may not be given, or caused to be given, in exchange for a qualifying  
29 contribution.

30 (4) A participating candidate must submit qualifying contributions to the commission  
31 during the qualifying period according to procedures developed by the commission, except as  
32 provided in subsection (13) of this section.

33 (5) Upon receipt of a final submittal of qualifying contributions by a participating  
34 candidate, the commission shall determine whether or not the candidate has:

- 35 (a) Signed and filed a declaration of intent to participate in this chapter;
- 36 (b) Submitted the appropriate number of valid qualifying contributions;
- 37 (c) Met the requirements to become a candidate under section 67-6602, Idaho Code;
- 38 (d) Not accepted contributions, except for seed money contributions, and otherwise  
39 complied with seed money restrictions; and
- 40 (e) Otherwise met the requirements for certification as set forth in this chapter.

41 The commission shall certify a candidate complying with the requirements of this section as an  
42 Idaho fair elections act candidate as soon as possible and no later than three (3) business days  
43 after the candidate's final submittal of qualifying contributions.

44 Upon certification, a certified candidate must transfer to the trust fund any unspent seed  
45 money contributions. A certified candidate must comply with all requirements of this chapter

1 after certification and throughout the primary and general election cycles. Failure to do so is  
2 a violation of this chapter. Written notice of certification or a denial of certification shall be  
3 delivered to the candidate and the opponent, if any.

4 (6) After certification, a certified candidate must limit the candidate's campaign  
5 expenditures and obligations, including outstanding obligations, to the amount of the revenues  
6 distributed to the candidate from the trust fund and may not accept any contributions unless  
7 specifically authorized by the commission. All moneys distributed to certified candidates from  
8 the trust fund must be used for campaign related purposes. The commission shall publish  
9 guidelines outlining permissible campaign related expenditures.

10 (7) The commission shall distribute to certified candidates revenues from the trust fund in  
11 amounts determined under subsection (8) of this section in the following manner:

12 (a) Within three (3) business days after certification, for candidates certified prior to the  
13 tenth Friday before the primary election, revenues from the trust fund must be distributed  
14 as if the candidates were in an uncontested primary election.

15 (b) Within three (3) business days after the tenth Friday before the primary election,  
16 for primary election certified candidates, revenues from the trust fund must be distributed  
17 according to whether the candidate is in a contested or uncontested primary election and  
18 reduced by any amounts previously distributed under subsection (7)(a) of this section.

19 (c) Within three (3) business days after the primary election, for general election certified  
20 candidates, revenues from the trust fund must be distributed according to whether or  
21 not the candidate is in a contested general election. Funds shall not be distributed to  
22 uncontested general election candidates. Funds may be distributed to certified candidates  
23 under this section by any mechanism that is expeditious, ensures accountability and  
24 safeguards the integrity of the trust fund.

25 (8) Each year prior to the election year, the commission shall determine the amount  
26 of funds from the trust fund to be distributed to participating candidates based on the type  
27 of election and office and the historical cost to run a competitive race for that office. The  
28 following shall guide the commission:

29 (a) For contested primary elections, the amount of revenues to be distributed may be  
30 the average amount of campaign expenditures made by candidates for that office during  
31 contested primary election races for the immediately preceding two (2) contested primary  
32 elections.

33 (b) For uncontested primary elections, the amount of revenues distributed is the average  
34 amount of campaign expenditures made by each candidate for that office during all  
35 uncontested primary election races, or for contested races if that amount is lower, for the  
36 immediately preceding two (2) primary elections.

37 (c) For contested general elections, the amount of revenues distributed is the average  
38 amount of campaign expenditures made by each candidate for that office during all  
39 contested general election races for the immediately preceding two (2) contested general  
40 elections.

41 (d) Revenues shall not be distributed to uncontested general election candidates. If the  
42 commission determines that there is insufficient current data on historic expenditures for  
43 a particular office based upon previous contested elections for that office, the commission  
44 may use discretion to determine an appropriate amount.

45 (9) When any campaign finance or election report shows that the sum of a candidate's  
46 expenditures or obligations, or funds raised or borrowed, whichever is greater, reported

1 under section 67-6607, Idaho Code, exceeds the distribution amount under subsection (8)  
2 of this section, the commission shall immediately issue to any opposing certified candidate  
3 an additional amount equivalent to the reported excess. Matching funds are limited to two  
4 (2) times the amount originally distributed under subsection (8)(a) or (8)(c) of this section,  
5 whichever is applicable.

6 (10) A candidate running as an independent candidate certified by the tenth Friday  
7 preceding the primary election is eligible for revenues from the trust fund in the same amounts  
8 and at the same time as an uncontested primary election candidate and a general election  
9 candidate as specified in subsections (7) and (8) of this section.

10 (11) The commission shall establish, by rule, procedures for qualification, certification,  
11 disbursements of trust fund revenues and return of unspent trust fund revenues for races  
12 involving special elections, vacancies, withdrawals or replacement candidates.

13 (12) Notwithstanding any other provision of law, participating and certified candidates  
14 shall report all money collected, all campaign expenditures, obligations and related activities  
15 to the commission according to procedures developed by the commission. Upon the filing  
16 of a report of expenditures under section 67-6607, Idaho Code, thirty (30) days after the  
17 primary election in which the candidate was defeated and for all other certified candidates  
18 thirty (30) days after the general election, all certified candidates shall return all unspent trust  
19 fund revenues to the commission. In developing these procedures, the commission shall utilize  
20 existing campaign reporting procedures whenever practicable.

21 (13) The commission may not distribute revenues to certified candidates in excess of  
22 the total amount of money deposited in the trust fund established in section 34-2604, Idaho  
23 Code. Notwithstanding any other provisions of this chapter, if the commission determines  
24 that the revenues in the trust fund are insufficient to meet distributions under subsection (7)  
25 or (9) of this section, the commission may permit certified candidates to accept and spend  
26 contributions, reduced by any seed money contributions, aggregating no more than five hundred  
27 dollars (\$500) per donor per election for candidates for statewide office, and two hundred  
28 dollars (\$200) per donor per election for candidates for the state senate and state house of  
29 representatives, up to the applicable amounts set forth in subsections (7) and (9) of this section  
30 according to the rules adopted by the commission.

31 (14) A candidate who has been denied certification as a certified candidate or the  
32 opponent of a certified candidate may challenge a certification decision by the commission as  
33 follows:

34 (a) A challenger may appeal to the full commission within three (3) business days of the  
35 certification decision. The appeal must be in writing and must set forth the reasons for  
36 the appeal.

37 (b) Within five (5) business days after an appeal is properly made by a challenger  
38 and after notice is given to the challenger and each and every opponent for the seat  
39 or office affected, the commission shall hold a hearing. The challenger has the burden  
40 of providing evidence to demonstrate that the commission decision was improper. The  
41 commission must rule on the appeal within three (3) business days after the completion of  
42 the hearing.

43 (c) A challenger may appeal the decision of the commission rendered pursuant to  
44 paragraph (b) of this subsection by commencing an action in district court.

45 (d) A candidate whose certification as a certified candidate is revoked on appeal must  
46 return to the commission any unspent revenues distributed from the trust fund. If the

1 commission or court finds that an appeal was made frivolously or to cause delay or  
2 hardship, the commission or court may require the challenger or appellant to pay costs  
3 and attorney's fees of the commission, court and opposing parties, if any.

4 34-2606. ADMINISTRATION OF THE CHAPTER. The commission, which shall  
5 exist within the office of the Idaho secretary of state, shall adopt rules to ensure effective  
6 administration of this chapter in the manner provided in chapter 52, title 67, Idaho Code.  
7 These rules must include, but must not be limited to, procedures for obtaining qualifying  
8 contributions, certification as an Idaho fair elections act candidate, circumstances involving  
9 special elections, vacancies, withdrawals or replacements, collection of revenues for the trust  
10 fund, distribution of trust fund revenues to certified candidates, return of unspent trust fund  
11 disbursements and compliance with the Idaho fair elections act.

12 34-2607. VIOLATIONS. (1) In addition to any other penalties that may be applicable, a  
13 person who violates any provision of this chapter is subject to a civil penalty not to exceed ten  
14 thousand dollars (\$10,000) per violation, payable to the trust fund. This penalty is recoverable  
15 in a civil action. In addition to any fine, for good cause shown, a candidate found in violation  
16 of this chapter may be required to return to the trust fund all amounts distributed to the  
17 candidate from the trust fund plus interest. If the commission makes a determination that a  
18 violation of this chapter has occurred, the commission shall assess a fine or transmit the finding  
19 to the attorney general for prosecution. Fines paid under this section shall be deposited in the  
20 trust fund. In determining whether or not a candidate is in violation of the expenditure limits of  
21 this chapter, the commission may consider as a mitigating factor any circumstances out of the  
22 candidate's control.

23 (2) A person who willfully or knowingly violates any provision of this chapter, or any  
24 rules of the commission, or who willfully or knowingly makes a false statement in any report  
25 required by this chapter, commits a misdemeanor and, if certified as an Idaho fair elections  
26 act candidate, must return to the trust fund all amounts distributed by the trust fund to the  
27 candidate.

28 34-2608. STUDY REPORT. By January 30, 2014, and every four (4) years thereafter,  
29 the commission shall prepare and submit to the legislature of the state of Idaho a report  
30 documenting, evaluating and making recommendations relating to the administration,  
31 implementation, funding and enforcement of the Idaho fair elections act and the Idaho fair  
32 elections act trust fund.

33 SECTION 2. That Chapter 32, Title 31, Idaho Code, be, and the same is hereby amended  
34 by the addition thereto of a NEW SECTION, to be known and designated as Section 31-3201H,  
35 Idaho Code, and to read as follows:

36 31-3201H. ADDITIONAL PENALTIES. (1) In addition to any other penalty  
37 assessment provided by law, a penalty assessment shall be levied in an amount of ten percent  
38 (10%) on every fine, penalty and forfeiture imposed and collected by the courts for any civil  
39 penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a  
40 violation of the motor vehicle statutes, for any local ordinance relating to the stopping, standing  
41 or operation of a vehicle or for a violation of the fish and game statutes in title 36, Idaho Code.

1 (2) If any deposit of bail, bond or deposit for an alleged civil traffic violation is to be  
2 made for a violation, the court shall require a sufficient amount to include the assessment  
3 prescribed in this section for forfeited bail, bond or deposit. If bail, bond or deposit is  
4 forfeited, the court shall transmit the amount of the assessment pursuant to subsection (5) of  
5 this section. If bail, bond or deposit is returned, the assessment made pursuant to this section  
6 shall also be returned.

7 (3) After addition of the penalty assessment, the courts may round the total amount due  
8 to the nearest one-quarter (1/4) dollar.

9 (4) The judge may waive all or part of the civil penalty, fine, forfeiture and penalty  
10 assessment, except for mandatory civil penalties and fines, the payment of which would work  
11 a hardship on the persons convicted or adjudicated or on their immediate families. If a fine  
12 or civil penalty is mandatory, the judge may waive only all or part of the penalty assessments  
13 prescribed in subsection (1) of this section. If a fine or civil penalty is not mandatory and if a  
14 portion of the civil penalty, fine, forfeiture and penalty assessment is waived or suspended, the  
15 amount assessed must be divided according to the proportion that the civil penalty, fine, bail or  
16 bond, or the penalty assessment represents of the total amount due.

17 (5) After a determination by the court of the amount due, the court shall transmit, on the  
18 last day of each month, the assessments collected pursuant to subsections (1) and (2) of this  
19 section and a remittance report of the fines, civil penalties and assessments collected pursuant  
20 to subsections (1) and (2) of this section to the county treasurer, except that the magistrates  
21 division of the district court shall transmit the assessments and the remittance report of the  
22 fines, civil penalties and assessments to the city treasurer.

23 (6) The appropriate authorities specified in subsection (5) of this section shall transmit  
24 the ten percent (10%) penalty assessment prescribed in subsection (1) of this section and the  
25 remittance report as required in subsection (5) of this section to the state treasurer on or before  
26 the fifteenth day of each month for deposit in the Idaho fair elections act trust fund established  
27 in section 34-2604, Idaho Code.

28 (7) Partial payments of the amount due shall be transmitted as prescribed in subsections  
29 (5) and (6) of this section and shall be divided according to the proportion that the civil penalty,  
30 fine, bail or bond, or penalty assessment represents of the total amount due.

31 SECTION 3. That Section 67-6607, Idaho Code, be, and the same is hereby amended to  
32 read as follows:

33 67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES. (a) The political  
34 treasurer for each candidate and the political treasurer of each political committee shall file with  
35 the secretary of state:

36 (1) Not more than fourteen (14) days and not less than seven (7) days before the date of  
37 a primary election in which the candidate or political committee is involved, a statement  
38 of all contributions received and all expenditures or encumbrances made by or on behalf  
39 of the candidate or political committee prior to the fifteenth day before the primary  
40 election;

41 (2) Not more than thirty (30) days after the date of a primary election in which a  
42 candidate or a political committee is involved, a statement of all contributions received  
43 and all expenditures or encumbrances made by or on behalf of the candidate or political  
44 committee to cover the period since the fifteenth day before the primary election to and  
45 including the tenth day after the primary election;



1 (3) For all political committees supporting or opposing measures, a statement of all  
 2 contributions received and all expenditures or encumbrances made by or on behalf of the  
 3 measure or any candidate or made by or against the measure or any candidate shall be  
 4 filed on the same dates provided in paragraphs (1), (2), (4), (5) and (6) of this subsection;

5 (4) Not later than October 10 immediately preceding a general election in which the  
 6 candidate or political committee is involved, a statement of all contributions received  
 7 and all expenditures or encumbrances made by or on behalf of the candidate or political  
 8 committee since and including the eleventh day after the date of the primary election and  
 9 to and including September 30;

10 (5) Not more than fourteen (14) days and not less than seven (7) days before the  
 11 date of a general election in which the candidate or political committee is involved, a  
 12 statement of all contributions received and all expenditures or encumbrances made by or  
 13 on behalf of the candidate or political committee since and including October 1 and to  
 14 and including the sixteenth day before the general election, together with a cumulative  
 15 statement showing all such contributions and expenditures or encumbrances to and  
 16 including the sixteenth day before the general election; and

17 (6) Not more than thirty (30) days after the date of a general election in which the  
 18 candidate or political committee is involved, a statement of all contributions received  
 19 and all expenditures or encumbrances made by or on behalf of the candidate or political  
 20 committee to cover the period since the fifteenth day before the general election to and  
 21 including the tenth day after the general election.

22 (b) For the first report under this section the reporting period shall cover the period  
 23 beginning with the first contribution, expenditure, or encumbrance.

24 (c) Notwithstanding any other reports required under this section, the political treasurer  
 25 for each candidate and any political committee supporting or opposing a measure shall notify  
 26 the secretary of state, in writing, of any individual contribution of ~~one thousand~~ five hundred  
 27 dollars (\$1,0500) or more, or multiple contributions aggregating one thousand dollars (\$1,000  
 28 or more, received by the political treasurer after the sixteenth day before, but more than  
 29 forty-eight (48) hours before, any primary or general election. This notification shall be made  
 30 within forty-eight (48) hours after the receipt of such contribution and shall include the name  
 31 of the candidate or measure, the identification of the contributor, the total amount received in  
 32 contributions since the end of the previous reporting period, and the date of receipt and amount  
 33 of the contribution. The notification shall be in addition to the reporting of these contributions  
 34 in the ~~post-election~~ postelection report.

35 (d) For all reports required pursuant to this section the secretary of state shall accept the  
 36 date of a postmark as the date of receipt except for the seven (7) day ~~pre-election~~ preelection  
 37 reports which must be received by no later than 5:00 p.m. on the seventh day preceding  
 38 the primary or general election and except for the reports required in subsection (c) of this  
 39 section which must be received within forty-eight (48) hours after receipt of the contribution or  
 40 aggregate contributions.

41 (e) Any reports required to be filed under the provisions of this section may also be filed  
 42 by means of an electronic facsimile transmission machine or by other electronic means in a  
 43 format approved by the secretary of state.

44 SECTION 4. That Section 67-6625, Idaho Code, be, and the same is hereby amended to  
 45 read as follows:

1 67-6625. VIOLATIONS – CIVIL FINE – MISDEMEANOR PENALTY –  
 2 PROSECUTION – LIMITATION – VENUE. (a) Any person who violates the provisions of  
 3 sections 67-6603 through 67-6614A, 67-6617, 67-6619, 67-6620, 67-6621(a), 67-6624, 67-6629  
 4 or 67-6630, Idaho Code, shall be liable for a civil fine not to exceed ~~two hundred fifty one~~  
 5 thousand dollars (~~\$251,000~~) if an individual, and not more than ~~two ten~~ thousand ~~five hundred~~  
 6 dollars (\$2,510,000) if a person other than an individual. The burden of proof for such civil  
 7 liability shall be met by showing a preponderance of the evidence. All fines collected pursuant  
 8 to this section shall be deposited in the Idaho fair elections act trust fund established in section  
 9 34-2604, Idaho Code.

10 (b) Any person who violates section 67-6605 or 67-6621(b), Idaho Code, and any person  
 11 who knowingly and willfully violates sections 67-6603 through 67-6614A, 67-6617, 67-6619,  
 12 67-6620, 67-6621(a), 67-6624, 67-6629 or 67-6630, Idaho Code, is guilty of a misdemeanor  
 13 and, upon conviction, in addition to the fines set forth in subsection (a) of this section, may be  
 14 imprisoned for not more than six (6) months or be both fined and imprisoned.

15 (c) The attorney general or the appropriate prosecuting attorney may prosecute any  
 16 violations of this ~~act~~ chapter.

17 (d) Prosecution for violation of this ~~act~~ chapter must be commenced within two (2) years  
 18 after the date on which the violation occurred.

19 (e) Venue for prosecution under the provisions of this chapter shall be in the county of  
 20 residence of the defendant if the defendant is a resident of the state of Idaho, otherwise venue  
 21 shall be in Ada county.

22 SECTION 5. That Section 67-6625A, Idaho Code, be, and the same is hereby amended  
 23 to read as follows:

24 67-6625A. LATE FILING OF STATEMENT OR REPORT – FEES. If any person fails  
 25 to file a report or statement on or before a specified date, he shall be liable in an amount of  
 26 fifty dollars (\$50.00) per day after the deadline until the statement or report is filed, to the  
 27 secretary of state. For statements or reports filed more than seven (7) days after the deadline,  
 28 this amount shall increase to one hundred dollars (\$100) per day beginning on the eighth day  
 29 after the deadline until the statement or report is filed. Liability need not be enforced by the  
 30 secretary of state if on an impartial basis he determines that the late filing was not willful and  
 31 that enforcement of the liability will not further the purposes of the ~~act~~ chapter, except that no  
 32 liability shall be waived if a statement or report is not filed within five (5) days after receiving  
 33 written notice of the filing requirement from the secretary of state.

34 The remedy provided in this section is cumulative and does not exclude any other remedy  
 35 or penalty prescribed in section 67-6625, Idaho Code. All amounts collected pursuant to  
 36 this section shall be deposited in the Idaho fair elections act trust fund established in section  
 37 34-2604, Idaho Code.

38 SECTION 6. That Title 67, Idaho Code, be, and the same is hereby amended by the  
 39 addition thereto of a NEW CHAPTER, to be known and designated as Chapter 84, Title 67,  
 40 Idaho Code, and to read as follows:

41 CHAPTER 84  
 42 COMMISSION ON FAIR ELECTION PRACTICES

1           67-8401. COMMISSION ON FAIR ELECTION PRACTICES CREATED. There is  
2 hereby created and established in the office of the secretary of state the "Idaho Commission on  
3 Fair Election Practices." Members of the commission shall be appointed as follows:

4           (1) By May 1, 2011, and as needed after that date, the governor, the president of the  
5 senate, and the leaders of the majority and minority parties in the senate, the speaker of the  
6 house of representatives and the leaders of the majority and minority parties in the house  
7 of representatives shall jointly establish and publish a nomination period during which the  
8 members of the public may nominate qualified individuals to the governor for appointment  
9 to the commission. The initial nomination period must close by September 1, 2011.

10           (2) The governor shall appoint the members of the commission, taking into consideration  
11 nominations made during the nomination period. The commission shall be composed of seven  
12 (7) Idaho registered voters. At least one (1) member of the committee shall be a member of  
13 each political party receiving at least ten percent (10%) of the vote in any statewide election  
14 in the previous general election. No more than four (4) members of the commission shall be  
15 members of any one (1) political party. No more than three (3) members of the commission  
16 shall be residents of the same county.

17           (3) The terms of the commission members will be staggered so that the first term of three  
18 (3) commissioners shall expire on December 31, 2012; the first term of two (2) commissioners  
19 shall expire on December 31, 2013; and the first term of two (2) commissioners shall expire on  
20 December 31, 2014.

21           (4) Except as set forth in subsection (3) of this section, the term of office shall be  
22 three (3) years and no commissioner shall serve for more than two (2) consecutive terms. The  
23 commissioners shall elect a chairman for a term of one (1) year.

24           (5) Except as set forth in subsection (3) of this section, the term of office shall  
25 commence on January 1 and expire on December 31.

26           (6) Vacancies shall be filled as terms expire. Each of the commissioners shall hold office  
27 until his or her successor has been appointed and qualified.

28           (7) A majority of the members of the commission shall constitute a quorum for the  
29 transaction of all business and the carrying out of the duties of the commission. Before  
30 entering on the discharge of their duties as members of the commission, each member shall  
31 take and subscribe to the oath of office prescribed for state officers.

32           (8) Each member of the commission shall be compensated as provided by section  
33 59-509(d), Idaho Code.

34           (9) Members of the commission may be removed by the governor for substantial neglect  
35 of duty, gross misconduct in office, inability to discharge the powers and duties of office or any  
36 violation of the provisions of this chapter, after written notice and opportunity for a response.

37           67-8402. DEFINITIONS. In this chapter, the following terms shall have the following  
38 meanings:

39           (1) "Commission" means the Idaho commission on fair election practices.

40           (2) "Trust fund" means the Idaho fair elections act trust fund established in section  
41 34-2604, Idaho Code.

42           67-8403. POWERS AND DUTIES OF THE COMMISSION ON FAIR ELECTION  
43 PRACTICES. The commission shall have the following powers and duties:

44           (1) The commission shall administer the Idaho fair elections act trust fund.

1 (2) The commission shall adopt rules to ensure effective administration of this chapter.  
2 The rules must include, but must not be limited to, procedures for obtaining qualifying  
3 contributions, certification of candidates under the Idaho fair elections act, circumstances  
4 involving special elections, vacancies, withdrawals or replacement, collection of revenues for  
5 the trust fund, distribution of trust fund revenues in a timely manner to certified candidates,  
6 return of unspent trust fund disbursements and compliance with the Idaho fair elections act.

7 (3) By September 1 preceding each election year, the commission shall publish an  
8 estimate of the revenue in the fund available for distribution to the certified candidates during  
9 the upcoming year's election, and shall state whether some or all of the offices shall be covered  
10 by the Idaho fair elections act pursuant to section 34-2603, Idaho Code.

11 (4) The commission shall publish guidelines outlining permissible campaign related  
12 expenditures.

13 (5) The commission shall distribute to certified candidates revenues from the trust fund in  
14 amounts determined under section 34-2605, Idaho Code.

15 (6) The commission shall work with the secretary of state to ensure the timely public  
16 access to campaign finance data, including storing and dissemination of information.

17 (7) The commission shall hear contests over eligibility for funding under chapter 26, title  
18 34, Idaho Code.

19 (8) The commission shall adopt any other rules necessary for administration of this  
20 chapter and the Idaho fair elections act, chapter 26, title 34, Idaho Code.

21 67-8404. FUNDING. The funding for the expenses of administering the commission  
22 shall be from the Idaho fair elections act trust fund in addition to any additional funds  
23 appropriated by the legislature.

24 SECTION 7. The provisions of this act are hereby declared to be severable and if any  
25 provision of this act or the application of such provision to any person or circumstance is  
26 declared invalid for any reason, such declaration shall not affect the validity of the remaining  
27 portions of this act.

28 SECTION 8. This act shall be in full force and effect on and after December 1, 2010,  
29 unless the context of a section specifically provides another effective date; and Section 2 of this  
30 act shall be null, void and of no force and effect on and after January 1, 2021.