

IN THE SENATE

SENATE BILL NO. 1040

BY MALEPEAI, BOCK, WERK, BILYEU, LEFAVOUR

AN ACT

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

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

28 SECTION 1. That Title 34, Idaho Code, be, and the same is hereby amended  
29 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
30 ter 26, Title 34, Idaho Code, and to read as follows:

31 CHAPTER 26  
32 IDAHO FAIR ELECTIONS ACT

33 34-2601. SHORT TITLE. This chapter may be known and cited as the "Idaho  
34 Fair Elections Act."

35 34-2602. DEFINITIONS. As used in this chapter:

36 (1) "Certified candidate" means a candidate in Idaho running for  
37 statewide office, state senator or state representative who chooses to par-  
38 ticipate in the Idaho fair elections act and who has met the requirements in  
39 section 34-2605, Idaho Code, to become a certified candidate.

1 (2) "Commission" means the commission on fair election practices  
2 within the office of the secretary of state established by chapter 84, title  
3 67, Idaho Code.

4 (3) "Contribution" means the same as in the definition of "contribu-  
5 tion" in section 67-6602, Idaho Code.

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

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

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

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

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

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

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

26 (7) "Qualifying period" means:

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

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

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

45 (9) "Statewide office" means the office of governor, lieutenant gov-  
46 ernor, secretary of state, attorney general, state treasurer, state con-  
47 troller and state superintendent of public instruction.

48 (10) "Trust fund" means the Idaho fair elections act trust fund estab-  
49 lished in section 34-2604, Idaho Code.

1           34-2603. ALTERNATIVE CAMPAIGN FINANCING OPTION. This chapter es-  
2     tablishes a voluntary alternative campaign financing option available to  
3     candidates running for statewide office, state senator or state representa-  
4     tive. This alternative campaign financing option is available to candidates  
5     for elections to be held beginning in the year 2014, if the commission de-  
6     termines that there are sufficient funds in the trust fund to provide a  
7     reasonable level of funding for the anticipated number of candidates who  
8     may qualify to run pursuant to this chapter. If sufficient funds exist in  
9     the trust fund to provide funding for the anticipated number of candidates  
10    who may qualify to run pursuant to this chapter for some, but not all, of-  
11    fices covered by this chapter, the commission shall determine which offices  
12    shall receive the funding that year and which shall wait until subsequent  
13    election years, based on the following priority: Idaho state house of repre-  
14    sentatives, all seats; Idaho state senate, all seats; lieutenant governor;  
15    governor; attorney general; secretary of state; state superintendent of  
16    public instruction; state controller; and state treasurer. The commission  
17    shall administer the provisions of this chapter and the trust fund. Candi-  
18    dates participating in this option must also comply with all other election  
19    and campaign laws and rules and regulations.

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

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

30           (a) The qualifying contributions required under section 34-2605, Idaho  
31    Code, and any excess qualifying contributions when those contributions  
32    are submitted to the commission;

33           (b) Seed money contributions collected pursuant to section 34-2605,  
34    Idaho Code, remaining unspent after a candidate has become a certified  
35    candidate;

36           (c) Trust fund revenues distributed to an Idaho fair elections act  
37    candidate and remaining unspent after the candidate has lost a primary  
38    election or after the general election;

39           (d) Other unspent funds distributed to any Idaho fair elections act  
40    candidate who does not remain a candidate throughout a primary or gen-  
41    eral election cycle;

42           (e) Voluntary donations made directly to the trust fund;

43           (f) Fines collected under sections 34-2607, 67-6625 and 67-6625A,  
44    Idaho Code;

45           (g) Revenue from a surcharge on civil assessments in the district  
46    courts of Idaho pursuant to section 31-3201I, Idaho Code; and

47           (h) Any other funds as designated by the legislature.

48           (3) By October 1 preceding each election year, the commission shall  
49    publish an estimate of the funds in the trust fund available for distribution

1 to the certified candidates during the upcoming year's election, and shall  
2 state whether some or all of the offices shall be qualified to receive fund-  
3 ing as provided in section 34-2603, Idaho Code.

4 (4) All moneys placed in the trust fund are hereby perpetually appro-  
5 priated to the secretary of state for administration and allocation as pro-  
6 vided in this chapter. All expenditures from the trust fund shall be paid out  
7 in warrants drawn by the state controller upon presentation of proper vouch-  
8 ers from the secretary of state. The provisions of section 67-3516(3) and  
9 (4), Idaho Code, are hereby specifically declared not to apply to the admin-  
10 istration of the trust fund.

11 34-2605. TERMS OF PARTICIPATION. (1) A participating candidate must  
12 file a declaration of intent to seek certification as an Idaho fair elections  
13 act candidate and comply with the requirements of this chapter. The declara-  
14 tion of intent must be filed with the commission prior to or during the quali-  
15 fying period, except as provided in subsection (14) of this section, accord-  
16 ing to forms and procedures developed by the commission. A participating  
17 candidate must submit a declaration of intent prior to collecting qualifying  
18 contributions pursuant to this chapter.

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

24 (a) Fifty thousand dollars (\$50,000) for a candidate for statewide of-  
25 fice;

26 (b) One thousand dollars (\$1,000) for a candidate for state senator;

27 (c) One thousand dollars (\$1,000) for a candidate for state representa-  
28 tive.

29 (3) Participating candidates must obtain qualifying contributions  
30 during the qualifying period as follows:

31 (a) For a candidate for governor, at least two thousand five hundred  
32 (2,500) qualified electors of the state of Idaho must support the candi-  
33 dacy by providing a qualifying contribution to that candidate;

34 (b) For a candidate for all other statewide offices, at least one thou-  
35 sand five hundred (1,500) qualified electors of the state of Idaho must  
36 support the candidacy by providing a qualifying contribution to that  
37 candidate;

38 (c) For a candidate for state senate or state house of representatives,  
39 at least one hundred fifty (150) qualified electors from the candi-  
40 date's legislative district must support the candidacy by providing a  
41 qualifying contribution to that candidate. A payment, gift or anything  
42 of value may not be given, or caused to be given, in exchange for a quali-  
43 fying contribution.

44 (4) A participating candidate must submit qualifying contributions to  
45 the commission during the qualifying period according to procedures devel-  
46 oped by the commission, except as provided in subsection (13) of this sec-  
47 tion.

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

4 (a) Signed and filed a declaration of intent to participate pursuant to  
5 this chapter;

6 (b) Submitted the appropriate number of valid qualifying contribu-  
7 tions;

8 (c) Met the requirements to become a candidate under section 67-6602,  
9 Idaho Code;

10 (d) Not accepted contributions, except for seed money contributions,  
11 and otherwise complied with seed money restrictions; and

12 (e) Otherwise met the requirements for certification as set forth in  
13 this chapter.

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

18 Upon certification, a certified candidate must transfer to the trust  
19 fund any unspent seed money contributions. A certified candidate must com-  
20 ply with all requirements of this chapter after certification and throughout  
21 the primary and general election cycles. Failure to do so is a violation of  
22 the provisions of this chapter. Written notice of certification or a denial  
23 of certification shall be delivered to the candidate and the opponent, if  
24 any.

25 (6) After certification, a certified candidate must limit the can-  
26 didate's campaign expenditures and obligations, including outstanding  
27 obligations, to the amount of the revenues distributed to the candidate from  
28 the trust fund and may not accept any contributions unless specifically  
29 authorized by the commission. All moneys distributed to certified candi-  
30 dates from the trust fund must be used for campaign related purposes. The  
31 commission shall publish guidelines outlining permissible campaign related  
32 expenditures.

33 (7) The commission shall distribute to certified candidates revenues  
34 from the trust fund in amounts determined under subsection (8) of this sec-  
35 tion in the following manner:

36 (a) Within three (3) business days after certification, for candidates  
37 certified prior to the tenth Friday before the primary election, rev-  
38 enues from the trust fund must be distributed as if the candidates were  
39 in an uncontested primary election.

40 (b) Within three (3) business days after the tenth Friday before the  
41 primary election, for primary election certified candidates, revenues  
42 from the trust fund must be distributed according to whether the can-  
43 didate is in a contested or uncontested primary election and reduced by  
44 any amounts previously distributed under subsection (7) (a) of this sec-  
45 tion.

46 (c) Within three (3) business days after the primary election, for gen-  
47 eral election certified candidates, revenues from the trust fund must  
48 be distributed according to whether or not the candidate is in a con-  
49 tested general election. Funds shall not be distributed to uncontested  
50 general election candidates. Funds may be distributed to certified

1 candidates under this section by any mechanism that is expeditious,  
2 ensures accountability and safeguards the integrity of the trust fund.

3 (8) Each year prior to the election year, the commission shall deter-  
4 mine the amount of funds from the trust fund to be distributed to participat-  
5 ing candidates based on the type of election and office and the historical  
6 cost to run a competitive race for that office. The following shall guide the  
7 commission:

8 (a) For contested primary elections, the amount of revenues to be dis-  
9 tributed may be the average amount of campaign expenditures made by can-  
10 didates for that office during contested primary election races for the  
11 immediately preceding two (2) contested primary elections.

12 (b) For uncontested primary elections, the amount of revenues dis-  
13 tributed is the average amount of campaign expenditures made by each  
14 candidate for that office during all uncontested primary election  
15 races, or for contested races if that amount is lower, for the immedi-  
16 ately preceding two (2) primary elections.

17 (c) For contested general elections, the amount of revenues dis-  
18 tributed is the average amount of campaign expenditures made by each  
19 candidate for that office during all contested general election races  
20 for the immediately preceding two (2) contested general elections.

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

26 (9) When any campaign finance or election report shows that the sum  
27 of a candidate's expenditures or obligations, or funds raised or borrowed,  
28 whichever is greater, reported under section 67-6607, Idaho Code, exceeds  
29 the distribution amount under subsection (8) of this section, the commission  
30 shall immediately issue to any opposing certified candidate an additional  
31 amount equivalent to the reported excess. Matching funds are limited to  
32 two (2) times the amount originally distributed under subsection (8) (a) or  
33 (8) (c) of this section, whichever is applicable.

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

39 (11) The commission shall establish, by rule, procedures for qualifi-  
40 cation, certification, disbursements of trust fund revenues and return of  
41 unspent trust fund revenues for races involving special elections, vacan-  
42 cies, withdrawals or replacement candidates.

43 (12) Notwithstanding any other provision of law, participating and  
44 certified candidates shall report all money collected, all campaign expen-  
45 ditures, obligations and related activities to the commission according  
46 to procedures developed by the commission. Upon the filing of a report of  
47 expenditures under section 67-6607, Idaho Code, thirty (30) days after the  
48 primary election in which the candidate was defeated and for all other cert-  
49 ified candidates thirty (30) days after the general election, all certified  
50 candidates shall return all unspent trust fund revenues to the commission.

1 In developing these procedures, the commission shall utilize existing cam-  
2 paign reporting procedures whenever practicable.

3 (13) The commission may not distribute revenues to certified candi-  
4 dates in excess of the total amount of money deposited in the trust fund  
5 established in section 34-2604, Idaho Code. Notwithstanding any other pro-  
6 visions of this chapter, if the commission determines that the revenues in  
7 the trust fund are insufficient to meet distributions under subsection (7)  
8 or (9) of this section, the commission may permit certified candidates to  
9 accept and spend contributions, reduced by any seed money contributions, ag-  
10 gregating no more than five hundred dollars (\$500) per donor per election for  
11 candidates for statewide office, and two hundred dollars (\$200) per donor  
12 per election for candidates for the state senate and state house of represen-  
13 tatives, up to the applicable amounts set forth in subsections (7) and (9) of  
14 this section according to the rules adopted by the commission.

15 (14) A candidate who has been denied certification as a certified can-  
16 didate or the opponent of a certified candidate may challenge a certifica-  
17 tion decision by the commission as follows:

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

21 (b) Within five (5) business days after an appeal is properly made by  
22 a challenger and after notice is given to the challenger and each and  
23 every opponent for the seat or office affected, the commission shall  
24 hold a hearing. The challenger has the burden of providing evidence to  
25 demonstrate that the commission decision was improper. The commission  
26 must rule on the appeal within three (3) business days after the comple-  
27 tion of the hearing.

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

31 (d) A candidate whose certification as a certified candidate is revoked  
32 on appeal must return to the commission any unspent revenues dis-  
33 tributed from the trust fund. If the commission or court finds that an  
34 appeal was made frivolously or to cause delay or hardship, the commis-  
35 sion or court may require the challenger or appellant to pay costs and  
36 attorney's fees of the commission, court and opposing parties, if any.

37 34-2606. ADMINISTRATION OF THE CHAPTER. The commission, which shall  
38 exist within the office of the Idaho secretary of state, shall adopt rules  
39 to ensure effective administration of this chapter in the manner provided in  
40 chapter 52, title 67, Idaho Code. These rules must include, but must not be  
41 limited to, procedures for obtaining qualifying contributions, certifica-  
42 tion as an Idaho fair elections act candidate, circumstances involving spe-  
43 cial elections, vacancies, withdrawals or replacements, collection of rev-  
44 enues for the trust fund, distribution of trust fund revenues to certified  
45 candidates, return of unspent trust fund disbursements and compliance with  
46 the Idaho fair elections act.

47 34-2607. VIOLATIONS. (1) In addition to any other penalties that may  
48 be applicable, a person who violates any provision of this chapter is sub-

1     ject to a civil penalty not to exceed ten thousand dollars (\$10,000) per vi-  
2     olation, payable to the trust fund. This penalty is recoverable in a civil  
3     action. In addition to any fine, for good cause shown, a candidate found in  
4     violation of the provisions of this chapter may be required to return to the  
5     trust fund all amounts distributed to the candidate from the trust fund plus  
6     interest. If the commission makes a determination that a violation of the  
7     provisions of this chapter has occurred, the commission shall assess a fine  
8     or transmit the finding to the attorney general for prosecution. Fines paid  
9     pursuant to this section shall be deposited in the trust fund. In determin-  
10    ing whether or not a candidate is in violation of the expenditure limits of  
11    this chapter, the commission may consider as a mitigating factor any circum-  
12    stances out of the candidate's control.

13         (2) A person who willfully or knowingly violates any provision of this  
14    chapter, or any rules of the commission, or who willfully or knowingly makes  
15    a false statement in any report required by this chapter, commits a misde-  
16    meanor and, if certified as an Idaho fair elections act candidate, must re-  
17    turn to the trust fund all amounts distributed by the trust fund to the candi-  
18    date.

19         34-2608. STUDY REPORT. By January 30, 2014, and every four (4) years  
20    thereafter, the commission shall prepare and submit to the legislature of  
21    the state of Idaho a report documenting, evaluating and making recommenda-  
22    tions relating to the administration, implementation, funding and enforce-  
23    ment of the Idaho fair elections act and the Idaho fair elections act trust  
24    fund.

25         SECTION 2. That Chapter 32, Title 31, Idaho Code, be, and the same is  
26    hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
27    ignated as Section 31-3201I, Idaho Code, and to read as follows:

28         31-3201I. ADDITIONAL PENALTIES. (1) In addition to any other penalty  
29    assessment provided by law, a penalty assessment shall be levied in an amount  
30    of ten percent (10%) on every fine, penalty and forfeiture imposed and col-  
31    lected by the courts for any civil penalty imposed and collected for a civil  
32    traffic violation and fine, penalty or forfeiture for a violation of the  
33    motor vehicle statutes, for any local ordinance relating to the stopping,  
34    standing or operation of a vehicle or for a violation of the fish and game  
35    statutes in title 36, Idaho Code.

36         (2) If any deposit of bail, bond or deposit for an alleged civil traffic  
37    violation is to be made for a violation, the court shall require a sufficient  
38    amount to include the assessment prescribed in this section for forfeited  
39    bail, bond or deposit. If bail, bond or deposit is forfeited, the court shall  
40    transmit the amount of the assessment pursuant to subsection (5) of this sec-  
41    tion. If bail, bond or deposit is returned, the assessment made pursuant to  
42    this section shall also be returned.

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

45         (4) The judge may waive all or part of the civil penalty, fine, forfei-  
46    ture and penalty assessment, except for mandatory civil penalties and fines,  
47    the payment of which would work a hardship on the persons convicted or adju-  
48    dicated or on their immediate families. If a fine or civil penalty is manda-



1 tory, the judge may waive only all or part of the penalty assessments pre-  
 2 scribed in subsection (1) of this section. If a fine or civil penalty is not  
 3 mandatory and if a portion of the civil penalty, fine, forfeiture and penalty  
 4 assessment is waived or suspended, the amount assessed must be divided ac-  
 5 cording to the proportion that the civil penalty, fine, bail or bond, or the  
 6 penalty assessment represents of the total amount due.

7 (5) After a determination by the court of the amount due, the court  
 8 shall transmit, on the last day of each month, the assessments collected  
 9 pursuant to subsections (1) and (2) of this section and a remittance report  
 10 of the fines, civil penalties and assessments collected pursuant to subsec-  
 11 tions (1) and (2) of this section to the county treasurer, except that the  
 12 magistrates division of the district court shall transmit the assessments  
 13 and the remittance report of the fines, civil penalties and assessments to  
 14 the city treasurer.

15 (6) The appropriate authorities specified in subsection (5) of this  
 16 section shall transmit the ten percent (10%) penalty assessment prescribed  
 17 in subsection (1) of this section and the remittance report as required in  
 18 subsection (5) of this section to the state treasurer on or before the fif-  
 19 teenth day of each month for deposit in the Idaho fair elections act trust  
 20 fund established in section 34-2604, Idaho Code.

21 (7) Partial payments of the amount due shall be transmitted as pre-  
 22 scribed in subsections (5) and (6) of this section and shall be divided  
 23 according to the proportion that the civil penalty, fine, bail or bond, or  
 24 penalty assessment represents of the total amount due.

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

27 67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES. (a) The political  
 28 treasurer for each candidate and the political treasurer of each political  
 29 committee shall file with the secretary of state:

30 (1) Not more than fourteen (14) days and not less than seven (7) days  
 31 before the date of a primary election in which the candidate or polit-  
 32 ical committee is involved, a statement of all contributions received  
 33 and all expenditures or encumbrances made by or on behalf of the candi-  
 34 date or political committee prior to the fifteenth day before the pri-  
 35 mary election;

36 (2) Not more than thirty (30) days after the date of a primary election  
 37 in which a candidate or a political committee is involved, a statement  
 38 of all contributions received and all expenditures or encumbrances made  
 39 by or on behalf of the candidate or political committee to cover the pe-  
 40 riod since the fifteenth day before the primary election to and includ-  
 41 ing the tenth day after the primary election;

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

47 (4) Not later than October 10 immediately preceding a general election  
 48 in which the candidate or political committee is involved, a statement  
 49 of all contributions received and all expenditures or encumbrances made

1 by or on behalf of the candidate or political committee since and in-  
2 cluding the eleventh day after the date of the primary election and to  
3 and including September 30;

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

13 (6) Not more than thirty (30) days after the date of a general election  
14 in which the candidate or political committee is involved, a statement  
15 of all contributions received and all expenditures or encumbrances made  
16 by or on behalf of the candidate or political committee to cover the pe-  
17 riod since the fifteenth day before the general election to and includ-  
18 ing the tenth day after the general election.

19 (b) For the first report under this section the reporting period shall  
20 cover the period beginning with the first contribution, expenditure, or en-  
21 cumbrance.

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

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

43 (e) Any reports required to be filed under the provisions of this sec-  
44 tion may also be filed by means of an electronic facsimile transmission ma-  
45 chine and may be filed by other electronic means as approved by the secretary  
46 of state.

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

1 67-6625. VIOLATIONS -- CIVIL FINE -- MISDEMEANOR PENALTY -- PROSECU-  
 2 TION -- 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),  
 4 67-6624, 67-6629 or 67-6630, Idaho Code, shall be liable for a civil fine not  
 5 to exceed ~~two hundred fifty~~ one thousand dollars (\$~~251,000~~) if an individ-  
 6 ual, and not more than ~~two ten thousand five hundred~~ dollars (\$~~2,510,000~~) if  
 7 a person other than an individual. The burden of proof for such civil lia-  
 8 bility shall be met by showing a preponderance of the evidence. All fines  
 9 collected pursuant to this section shall be deposited in the Idaho fair elec-  
 10 tions act trust fund established in section 34-2604, Idaho Code.

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

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

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

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

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

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

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

43 SECTION 6. That Title 67, Idaho Code, be, and the same is hereby amended  
 44 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
 45 ter 84, Title 67, Idaho Code, and to read as follows:

46 CHAPTER 84

47 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  
3 "Idaho Commission on Fair Election Practices." Members of the commission  
4 shall be appointed as follows:

5           (1) By May 1, 2013, and as needed after that date, the governor, the  
6 president of the senate, and the leaders of the majority and minority parties  
7 in the senate, the speaker of the house of representatives and the leaders  
8 of the majority and minority parties in the house of representatives shall  
9 jointly establish and publish a nomination period during which the members  
10 of the public may nominate qualified individuals to the governor for ap-  
11 pointment to the commission. The initial nomination period must close by  
12 September 1, 2013.

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

21           (3) The terms of the commission members will be staggered so that the  
22 first term of three (3) commissioners shall expire on December 31, 2014; the  
23 first term of two (2) commissioners shall expire on December 31, 2015; and  
24 the first term of two (2) commissioners shall expire on December 31, 2016.

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

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

31           (6) Vacancies shall be filled as terms expire. Each of the commission-  
32 ers shall hold office until his or her successor has been appointed and qual-  
33 ified.

34           (7) A majority of the members of the commission shall constitute a quo-  
35 rum for the transaction of all business and the carrying out of the duties of  
36 the commission. Before entering on the discharge of their duties as members  
37 of the commission, each member shall take and subscribe to the oath of office  
38 prescribed for state officers.

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

41           (9) Members of the commission may be removed by the governor for sub-  
42 stantial neglect of duty, gross misconduct in office, inability to discharge  
43 the powers and duties of office or any violation of the provisions of this  
44 chapter, after written notice and opportunity for a response.

45           67-8402. DEFINITIONS. In this chapter, the following terms shall have  
46 the following meanings:

47           (1) "Commission" means the Idaho commission on fair election prac-  
48 tices.

1 (2) "Trust fund" means the Idaho fair elections act trust fund estab-  
2 lished in section 34-2604, Idaho Code.

3 67-8403. POWERS AND DUTIES OF THE COMMISSION ON FAIR ELECTION PRAC-  
4 TICES. The commission shall have the following powers and duties:

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

7 (2) The commission shall adopt rules to ensure effective administra-  
8 tion of this chapter. The rules must include, but must not be limited to,  
9 procedures for obtaining qualifying contributions, certification of candi-  
10 dates under the Idaho fair elections act, circumstances involving special  
11 elections, vacancies, withdrawals or replacement, collection of revenues  
12 for the trust fund, distribution of trust fund revenues in a timely manner  
13 to certified candidates, return of unspent trust fund disbursements and com-  
14 pliance with the Idaho fair elections act.

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

20 (4) The commission shall publish guidelines outlining permissible cam-  
21 paign related expenditures.

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

24 (6) The commission shall work with the secretary of state to ensure the  
25 timely public access to campaign finance data, including storing and dissem-  
26 ination of information.

27 (7) The commission shall hear contests over eligibility for funding un-  
28 der chapter 26, title 34, Idaho Code.

29 (8) The commission shall adopt any other rules necessary for adminis-  
30 tration of this chapter and the Idaho fair elections act, chapter 26, title  
31 34, Idaho Code.

32 67-8404. FUNDING. The funding for the expenses of administering the  
33 commission shall be from the Idaho fair elections act trust fund in addition  
34 to any additional funds appropriated by the legislature.

35 SECTION 7. SEVERABILITY. The provisions of this act are hereby declared  
36 to be severable and if any provision of this act or the application of such  
37 provision to any person or circumstance is declared invalid for any reason,  
38 such declaration shall not affect the validity of the remaining portions of  
39 this act.

40 SECTION 8. This act shall be in full force and effect on and after Decem-  
41 ber 1, 2012, unless the context of a section specifically provides another  
42 effective date; and Section 2 of this act shall be null, void and of no force  
43 and effect on and after January 1, 2023.