

IN THE SENATE

SENATE BILL NO. 1299

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; AMENDING SEC-
2 TION 67-6602, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING CHAPTER 66,
3 TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6631, IDAHO
4 CODE, TO REQUIRE REPORTING IN ALL STATE AND LOCAL ELECTIONS AND BALLOT
5 MEASURES IN THIS STATE AND TO PROVIDE THAT REPORTS SHALL BE MADE TO CER-
6 TAIN PERSONS; AMENDING SECTION 33-503, IDAHO CODE, TO REMOVE A CERTAIN
7 EXCEPTION REGARDING ELECTIONS OF SCHOOL DISTRICT TRUSTEES; AND DECLAR-
8 ING AN EMERGENCY.
9

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

11 SECTION 1. That Section 67-6602, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 67-6602. DEFINITIONS. As used in this chapter, the following terms
14 have the following meanings:

15 (a) "Candidate" means an individual who has taken affirmative action to
16 seek nomination or election to public office. An individual shall be deemed
17 to have taken affirmative action to seek such nomination or election to pub-
18 lic office when he first:

19 (1) Receives contributions or makes expenditures or reserves space or
20 facilities with intent to promote his candidacy for office; or

21 (2) Announces publicly or files for office.

22 (3) For purposes of this chapter, an incumbent shall be presumed to be
23 a candidate in the subsequent election for his or her office. Contri-
24 butions received by an incumbent candidate shall not be in excess of the
25 prescribed contribution limits for the subsequent election by which the
26 incumbent candidate's name would first appear on the ballot. An incum-
27 bent shall no longer be a candidate for his or her office after the dead-
28 line for the filing of a declaration of candidacy to first appear on the
29 ballot for that office has expired.

30 (b) "Compensation" includes any advance, conveyance, forgiveness of
31 indebtedness, deposit, distribution, loan, payment, gift, pledge or trans-
32 fer of money or anything of value, and any contract, agreement, promise or
33 other obligation, whether or not legally enforceable, to do any of the fore-
34 going, for services rendered or to be rendered, but does not include reim-
35 bursement of expenses if such reimbursement does not exceed the amount ac-
36 tually expended for such expenses and is substantiated by an itemization of
37 such expenses.

38 (c) "Contribution" includes any advance, conveyance, forgiveness of
39 indebtedness, deposit, distribution, loan, payment, gift, pledge, sub-
40 scription or transfer of money or anything of value, and any contract, agree-
41 ment, promise or other obligation, whether or not legally enforceable, to
42 make a contribution, in support of or in opposition to any candidate, polit-

1 ical committee or measure. Such term also includes personal funds or other
 2 property of a candidate or members of his household expended or transferred
 3 to cover expenditures incurred in support of such candidate but does not
 4 include personal funds used to pay the candidate filing fee. Such term also
 5 includes the rendering of personal and professional services for less than
 6 full consideration, but does not include ordinary home hospitality or the
 7 rendering of "part-time" personal services of the sort commonly performed
 8 by volunteer campaign workers or advisors or incidental expenses not in ex-
 9 cess of twenty-five dollars (\$25.00) personally paid for by any volunteer
 10 campaign worker. "Part-time" services, for the purposes of this definition,
 11 means services in addition to regular full-time employment, or, in the case
 12 of an unemployed person or persons engaged in part-time employment, services
 13 rendered without compensation or reimbursement of expenses from any source
 14 other than the candidate or political committee for whom such services are
 15 rendered. For the purposes of this act, contributions, other than money or
 16 its equivalent shall be deemed to have a money value equivalent to the fair
 17 market value of the contribution.

18 (d) "Election" means any general, special or primary election.

19 (e) "Election campaign" means any campaign in support of or in opposi-
 20 tion to a candidate for election to public office and any campaign in support
 21 of, or in opposition to, a measure.

22 (f) (1) "Electioneering communication" means any communication broad-
 23 cast by television or radio, printed in a newspaper or on a billboard,
 24 directly mailed or delivered by hand to personal residences, or tele-
 25 phone calls made to personal residences, or otherwise distributed that:

26 (i) Unambiguously refers to any candidate; and

27 (ii) Is broadcasted, printed, mailed, delivered, made or dis-
 28 tributed within thirty (30) days before a primary election or
 29 sixty (60) days before a general election; and

30 (iii) Is broadcasted to, printed in a newspaper, distributed to,
 31 mailed to or delivered by hand to, telephone calls made to, or
 32 otherwise distributed to an audience that includes members of the
 33 electorate for such public office.

34 (2) "Electioneering communication" does not include:

35 (i) Any news articles, editorial endorsements, opinion or com-
 36 mentary, writings, or letter to the editor printed in a newspaper,
 37 magazine, or other periodical not owned or controlled by a candi-
 38 date or political party;

39 (ii) Any editorial endorsements or opinions aired by a broad-
 40 cast facility not owned or controlled by a candidate or political
 41 party;

42 (iii) Any communication by persons made in the regular course and
 43 scope of their business or any communication made by a membership
 44 organization solely to members of such organization and their fam-
 45 ilies;

46 (iv) Any communication which refers to any candidate only as part
 47 of the popular name of a bill or statute;

48 (v) A communication which constitutes an expenditure or an inde-
 49 dependent expenditure under this chapter.

50 (g) "Executive official" means:

1 (1) The governor, lieutenant governor, secretary of state, state con-
2 troller, state treasurer, attorney general, superintendent of public
3 instruction and any deputy or staff member of one (1) of those individ-
4 uals who, within the course and scope of his or her employment, is di-
5 rectly involved in major policy influencing decisions for the office;

6 (2) A state department or agency director, deputy director, division
7 administrator or bureau chief as established and enumerated in sections
8 67-2402 and 67-2406, Idaho Code;

9 (3) The membership and the executive or chief administrative officer
10 of any board or commission that is authorized to make rules or conduct
11 rulemaking activities pursuant to section 67-5201, Idaho Code;

12 (4) The membership and the executive or chief administrative officer
13 of any board or commission that governs any of the state departments
14 enumerated in section 67-2402, Idaho Code, not including public school
15 districts;

16 (5) The membership and the executive or chief administrative officer
17 of the Idaho public utilities commission, the Idaho industrial commis-
18 sion, and the Idaho state tax commission; and

19 (6) The members of the governing board of the state insurance fund, and
20 the members of the governing board and the executive or chief adminis-
21 trative officer of the Idaho housing and finance association, the Idaho
22 energy resources authority, and the Idaho state building authority.

23 (h) "Expenditure" includes any payment, contribution, subscription,
24 distribution, loan, advance, deposit, or gift of money or anything of value,
25 and includes a contract, promise, or agreement, whether or not legally en-
26 forceable, to make an expenditure. The term "expenditure" also includes a
27 promise to pay, a payment or a transfer of anything of value in exchange for
28 goods, services, property, facilities or anything of value for the purpose
29 of assisting, benefiting or honoring any public official or candidate, or
30 assisting in furthering or opposing any election campaign.

31 (i) "Independent expenditure" means any expenditure by a person for
32 a communication expressly advocating the election, passage or defeat of a
33 clearly identified candidate or measure that is not made with the coopera-
34 tion or with the prior consent of, or in consultation with, or at the consent
35 of, or in consultation with, or at the request of a suggestion of, a candidate
36 or any agent or authorized committee of the candidate or political committee
37 supporting or opposing a measure. As used in this subsection, "expressly ad-
38 vocating" means any communication containing a message advocating election,
39 passage or defeat including, but not limited to, the name of the candidate
40 or measure, or expression such as "vote for," "elect," "support," "cast your
41 ballot for," "vote against," "defeat" or "reject."

42 (j) "Lobby" and "lobbying" each means attempting through contacts
43 with, or causing others to make contact with, members of the legislature or
44 legislative committees or an executive official, to influence the approval,
45 modification or rejection of any legislation by the legislature of the state
46 of Idaho or any committee thereof or by the governor or to develop or main-
47 tain relationships with, promote goodwill with, or entertain members of the
48 legislature or executive officials. "Lobby" and "lobbying" shall also mean
49 communicating with an executive official for the purpose of influencing the
50 consideration, amendment, adoption or rejection of any rule or rulemaking as

1 defined in section 67-5201, Idaho Code, or any ratemaking decision, procure-
2 ment, contract, bid or bid process, financial services agreement, or bond
3 issue. Neither "lobby" nor "lobbying" includes an association's or other
4 organization's act of communicating with the members of that association
5 or organization; and provided that neither "lobby" nor "lobbying" includes
6 communicating with an executive official for the purpose of carrying out
7 ongoing negotiations following the award of a bid or a contract, communica-
8 tions involving ongoing legal work and negotiations conducted by and with
9 attorneys for executive agencies, interactions between parties in litiga-
10 tion or other contested matters, or communications among and between members
11 of the legislature and executive officials and their employees, or by state
12 employees while acting in their official capacity or within the course and
13 scope of their employment.

14 (k) "Lobbyist" includes any person who lobbies.

15 (l) "Lobbyist's employer" means the person or persons by whom a lobby-
16 ist is employed, directly or indirectly, and all persons by whom he is com-
17 pensated for acting as a lobbyist.

18 (m) "Measure" means any proposal, ~~to be voted statewide,~~ submitted to
19 the people for their approval or rejection at an election, including any ini-
20 tiative, referendum, recall election ~~for statewide or legislative district~~
21 ~~offices,~~ or revision of or amendment to the state constitution. An initia-
22 tive or referendum proposal shall be deemed a measure when ~~the attorney gen-
23 eral reviews it~~ has been reviewed and gives given it a ballot title. A recall
24 shall be deemed a measure upon approval of the recall petition as to form pur-
25 suant to section 34-1704, Idaho Code.

26 (n) "Nonbusiness entity" means any group of two (2) or more individu-
27 als, corporation, association, firm, partnership, committee, club or other
28 organization which:

29 (1) Does not have as its principal purpose the conduct of business ac-
30 tivities for profit; and

31 (2) Received during the preceding or current calendar year contribu-
32 tions, gifts or membership fees, which in the aggregate exceeded ten
33 percent (10%) of its total receipts for such year.

34 (o) "Person" means an individual, corporation, association, firm,
35 partnership, committee, political party, club or other organization or
36 group of persons.

37 (p) "Political committee" means:

38 (1) Any person specifically designated to support or oppose any candi-
39 date or measure; or

40 (2) Any person who receives contributions and makes expenditures in
41 an amount exceeding five hundred dollars (\$500) in any calendar year
42 for the purpose of supporting or opposing one (1) or more candidates or
43 measures. Any entity registered with the federal election commission
44 shall not be considered a political committee for purposes of this chap-
45 ter.

46 (3) A county, district or regional committee of a recognized politi-
47 cal party shall not be considered a political committee for the purposes
48 of this chapter unless such party committee has expenditures exceeding
49 five thousand dollars (\$5,000) in a calendar year.

1 (q) "Political treasurer" means an individual appointed by a candidate
2 or political committee as provided in section 67-6603, Idaho Code.

3 (r) "Public office" means any state office or position, ~~state senator,~~
4 ~~state representative, and judge of the district court~~ that is filled by elec-
5 tion.

6 SECTION 2. That Chapter 66, Title 67, Idaho Code, be, and the same is
7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
8 ignated as Section 67-6631, Idaho Code, and to read as follows:

9 67-6631. REPORTING -- STATE AND LOCAL ELECTIONS AND BALLOT MEA-
10 SURES. (1) The provisions of sections 67-6601 through 67-6616, Idaho Code,
11 and sections 67-6623 through 67-6630, Idaho Code, shall apply to all local
12 candidate elections and ballot measures in this state.

13 (2) Reports made pursuant to the provisions of sections 67-6601 through
14 67-6616, Idaho Code, shall be made to:

15 (a) The secretary of state for all state elections or state ballot mea-
16 sures;

17 (b) The respective city clerk for all city elections and county clerk
18 for all county or special district elections covered by chapter 14, ti-
19 tle 34, Idaho Code, or ballot measures.

20 (3) The respective city clerk or county clerk shall stand in the place
21 of the secretary of state and the respective city attorney or county prosecu-
22 tor shall stand in the place of the attorney general.

23 SECTION 3. That Section 33-503, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 33-503. ELECTION OF TRUSTEES -- UNIFORM DATE. (1) The election of
26 school district trustees including those in charter districts shall be on
27 the third Tuesday in May in odd-numbered years. Notice and conduct of the
28 election, and the canvassing of the returns shall be as provided in chapter
29 14, title 34, Idaho Code. In each trustee zone, the person receiving the
30 greatest number of votes cast within his zone shall be declared by the board
31 of trustees as the trustee elected from that zone.

32 (2) If any two (2) or more persons have an equal number of votes in any
33 trustee zone and a greater number than any other nominee in that zone, the
34 board of trustees shall determine the winner by a toss of a coin.

35 (3) The provisions of sections 67-6601 through 67-6616, Idaho Code, and
36 sections 67-6623 through 67-6630, Idaho Code, shall apply to all elections
37 of school district trustees, ~~except for elections of trustees in a school~~
38 ~~district that has fewer than five hundred (500) students~~. Provided however,
39 the county clerk shall stand in place of the secretary of state and the county
40 prosecutor shall stand in place of the attorney general. Any report or fil-
41 ing required to be filed by or for a candidate by such Idaho Code sections
42 shall be filed with the county clerk of the county wherein the district lies
43 or, in the case of a joint district, with the county clerk of the home county
44 as designated pursuant to section 33-304, Idaho Code.

1 SECTION 4. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.