

**MINUTES**  
**Approved by the Committee**  
**Campaign Finance Reform Legislative Work Group**  
**Monday, November 27, 2017**  
**9:00 A.M.**  
**Room EW 42**  
**Boise, Idaho**

**Co-chair Senator Lodge called the meeting to order at 9:03 a.m.** A silent roll call was taken. Work group members in attendance were:

Co-chair Senator Patti Anne Lodge and Co-chair Representative Fred Wood; Senators Todd Lakey, Marv Hagedorn, and Mark Harris; Representatives John Vander Woude, Thomas Loertscher, Sage Dixon, and Mathew Erpelding. Senator Michelle Stennett attended via conference phone. Legislative Services Office staff present were: Kristin Ford, Maggie Smith, and Tetiana Powell.

Other attendees: Wayne Hoffman - Idaho Freedom Foundation; Carie Foster, Skip Smyser, Jason Kreizenbeck - Lobby Idaho; Graham Zickefoose - University of Idaho McClure Center; John Eaton - Idaho Association of Commerce & Industry; Pat Sullivan, Colby Cameron - Idaho Legislative Advisers; Phil McGrane - Ada County Clerk's Office; Lawrence Denney - Idaho Secretary of State, Tim Hurst - Idaho Secretary of State's Office.

NOTE: presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature website: <https://legislature.idaho.gov/sessioninfo/2017/interim/>; and copies of those items are in the Legislative Services Office located in the State Capitol.

Co-chair Lodge welcomed attendees and thanked the Secretary of State's Office, LSO Staff and Phil McGrane for their work on drafts.

Co-chair Wood addressed tasks that need to be discussed, including draft legislation, campaign contributions during the legislative session, the Secretary of State's financial request for the electronic reporting system, and the possible extension of the campaign finance work group for another year.

Co-chair Lodge called for the approval of the October 18, 2017 minutes. **Co-chair Wood made a motion to approve October 18, 2017 minutes. Sen. Hagedorn seconded the motion. The motion passed unanimously.**

**[Discussion on draft 52:](#)**

Sen. Hagedorn asked why water and irrigation districts are excluded from the draft. Tim Hurst, Chief Deputy, Secretary of State's Office, explained that the election law covers these districts.

Rep. Wood asked if a political action committee falls under the definition of a person. Mr. Hurst confirmed that it was indeed true. Rep. Wood wanted that confirmation on the record.

Sen. Lakey asked if city council membership is included in the definition of executive official and why. Mr. Hurst reminded the committee that they made this decision at the last meeting, because of concerns regarding lobbying on a local level. Sen. Lakey asked why it was put under the executive official rather than somewhere else. Mr. Hurst said it fits there as well as anywhere else and deals with lobbyists' interactions with public officials.

Sen. Lakey voiced concern that the language regarding lobbying is too broad. Phil McGrane agreed with Sen. Lakey's comment. Sen. Lakey also noted that he thinks the definition of social media should be refined in section two.

Sen. Hagedorn asked Mr. McGrane if his office had found any areas of concern regarding smaller, less populated counties having trouble meeting the new reporting requirements. Mr. McGrane

confirmed that his office had put a great amount of thought into this issue and the new system will benefit the smaller counties as well as the larger ones.

Rep. Vander Woude asked if the wording should be changed to "more than \$1,000" rather than "of \$1,000" in section 14 line 32 and asked if it would be better to use quarterly reporting instead of monthly reporting. Mr. Hurst explained the difference between the annual report and the monthly report. He does not anticipate a problem with monthly reports.

Rep. Vander Woude asked if the reconciliation between accounts is done only once a year and the reporting is to be done monthly.

Co-chair Lodge noted discrepancies between the dates of when a candidate receives a check, when that check was written, and when the donation is reported. Mr. Hurst explained that is why reconciliation happens only once a year and that the most important date is when the check is received by the treasurer.

Sen. Hagedorn asked about the intent of the wording in section 19 line 27. Ms. Ford reminded the committee that a candidate and a candidate committee have the same definition.

Rep. Erpelding asked why there are brackets for different options on page 14. Ms. Ford explained that she included the brackets to show the committee different options that they could include in the bill before it goes to the legislature.

**Rep. Erpelding asked unanimous consent request to choose "all contributors who are tied shall be disclosed" from proposed versions in brackets on page 14, lines 24-26. There being no objection, the request was granted.**

**Rep. Erpelding asked unanimous consent request to choose "all contributors who are tied shall be disclosed" from proposed versions in brackets on page 14 ,lines 44-46. There being no objection, the request was granted.**

Rep. Vander Woude asked to see the form provided by the Secretary of State referred to in the language. Mr. Hurst noted that his office had not developed a form because they were not notified what should be in it. Rep. Vander Woude expressed the concern that they hadn't yet seen a draft of the form. Rep. Erpelding asked if the online tools for creating the form are adequate. Mr. Hurst confirmed that they are and mentioned that the form is now electronic.

Sen. Lakey asked to clarify the language regarding penalties. Mr. Hurst referred to the Secretary of State's responsibility to issue directives. This language doesn't have the same effect as law, but gives directions and clarification.

Rep. Erpelding asked why lines 20-21 in section 27 have been removed and if 'persuasive poll' is included in the definition of electioneering communication. Ms. Ford said that she was trying to match the other sections and it's covered in the violation section. Persuasive polls are covered in another section.

Sen. Lakey made a comment in regard to lobbyist registration and enforcement at the local level in Section 28.

Sen. Stennett asked if the ten dollar fee for lobbyist registration is enough. Mr. Hurst responded that this fee was established in 1974 and hasn't been changed since. He noted that the Secretary of State's Office would not oppose increasing the fee, if the committee supports it.

Sen. Hagedorn said that the fee has to match the cost for the Secretary of State's Office to register these entities. He expressed concern that increasing the fee might make it so some entities are not going to be able to register. Co-chair Lodge confirmed that this is a citizen legislature and everybody has to be encouraged to register with reasonable fees.

Sec. Denney explained that all of the registration fees go into the general fund and it has no impact on the Secretary of State's Office.

Rep. Wood recommended that the committee postpone the topics of lobbyist registration fees and local level registration to the following interim.

Co-chair Lodge invited Phil McGrane to comment on the duties of the Secretary of State and county clerks shown in section 35. Mr. McGrane referred to lines 27-33 and explained how the new database is going to balance interaction between the Secretary of State's Office and local entities. He explained that county clerks' offices throughout the state will monitor all offices at the county level and below and that the Secretary of State will monitor all the legislative and statewide offices and that all the reporting will go through the Secretary of State's Office, with local officials inspecting each statement and contacting the prosecutor if reporting violations are found.

Co-chair Wood wanted to make sure that Sec. Denney, the Secretary of State's Office, and all local officials agree with the language in section 35. Sec. Denney, Tim Hurst and Phil McGrane confirmed that they are in agreement with the concept.

Co-chair Lodge asked if this concept has been discussed between the county clerks through the state. Mr. McGrane confirmed that it has.

Sen. Hagedorn noted that the court clerk has to be changed to the county clerk in the draft, and Co-chair Wood noted that it occurs throughout the whole paragraph. Ms. Ford said that she will correct the mistake.

Sen. Lakey asked Ms. Ford about chapter 66 of title 67 and why an entire chapter is applied to certain elections rather than sections. Ms. Ford explained that before they were only applying the campaign reporting provisions to local elections but by applying the whole chapter, the lobbying provisions will become applicable as well.

Sen. Lakey commented that the local lobbying provisions require more work and time. He suggested that this topic be handled sometime next year.

Rep. Erpelding asked Sen. Lakey why a different code section is needed for local lobbying. Sen. Lakey noted that a separate code section is not absolutely necessary; however, there are a vast number of things that should not be subjected to the lobbying laws.

Rep. Erpelding pointed out that it is considered lobbying when a developer takes a commissioner or a council member to dinner or an event. He stated that to not have local officials included in lobbying is wrong because there is an equivalent need to disclose at the local level.

Sen. Hagedorn expressed a concern about the local lobbying issue, wondering whether it is considered lobbying when you know an elected official personally and certain topics might occur in a conversation with no intention to influence. In his opinion the language has to be refined. Mr. Hurst addressed the concern pointing to the definition of who is exempt from registration. It is only if you hire someone to speak for you that registration is necessary.

Sen. Lakey noted that he believes the committee needs to receive direct input from the cities, the counties, highway districts, and others before adding this section to the draft.

Co-chair Wood asked Sen. Lakey if the committee should remove the sentence on page 5 lines 28-34 for this legislation considering that it will be discussed in the following interim. Sen. Lakey confirmed.

Rep. Erpelding said that it is a bad decision to continue defining lobbying as only happening at the state level. He believes it does not make any sense to require campaign finance reporting to local entities without any requirements for lobbyists who are lobbying contracts on a regular basis to school districts, cities and counties.

Co-chair Wood pointed out that the effective date for this legislation is July 1, 2019, and the issue of local lobbying will be addressed next year.

Mr. McGrane suggested repealing sections on pages 24-25 to avoid duplication with the Sunshine Law and until the lobbying part is defined. In addition, he said that local boards and entities that are not elected like the planning and zoning commission should also be considered in terms of lobbying.

Sen. Hagedorn recommended leaving in the sentence on page five, lines 28-34, so the public can have a chance to analyze and give feedback so the committee could come up with better language.

Sen. Lakey said that the committee could present the language to local officials so they can discuss it at their regular meetings, but still remove the language from the draft for the legislature's consideration during the next session.

Mr. Hurst pointed out that if the committee decides to remove language on page 5, they also need to consider lines 39-42 on page 4.

Co-chair Wood asked Mr. McGrane to clarify which sections need to be removed on page 25. Mr. McGrane pointed out section 43, section 44, subsection 3 of section 45 and all other local election language referring to the Sunshine Law.

**Co-chair Wood asked unanimous consent request to remove section 43, section 44, subsection three of section 45, subsection seven of section 46, section 47, section 48 and section 49. There being no objection, the request was granted.**

Rep. Erpelding asked if the intent of the change is to remove the language from title 40, chapter 14 and title 50, chapter 42. Mr. McGrane confirmed.

Ms. Ford asked the committee to clarify whether the committee wants to leave in or remove language on pages 4 and 5.

**Co-chair Wood asked unanimous consent request to remove lines 39-42 on page 4 and lines 28-34 on page 5.** Rep. Erpelding objected, explaining that this working group will effectively end the conversation on this topic for this year. Leaving the language in allows for the continuance of the conversation in 2018.

**For the purposes of the next draft Co-chair Wood made a motion to remove the language in DRKMF 052 page 4, lines 39-42 and page 5, lines 28-34. Sen. Lakey seconded the motion. A Roll Call was requested. Motion passed by a vote of 6 AYE, 4 NAY. Voting in favor of the motion: Sen. Lakey, Sen. Harris, Co-chair Lodge, Rep. Vander Woude, Rep. Loertscher, Co-chair Wood. Voting in opposition to the motion: Sen. Hagedorn, Sen. Stennett, Rep. Dixon, Rep. Erpelding.**

**Co-chair Lodge put the work group at ease at 10:42 a.m.**

**Co-chair Lodge resumed the meeting at 10:53 a.m.**

#### **Discussion on Draft 26:**

Rep. Loertscher said that there are no changes to the draft since the last discussion, but he is open for questions and comments. He would like it to be recommended to the full legislature.

Sen. Hagedorn asked to clarify language regarding disclosure if the officeholder believes it may constitute a conflict of interest rather than a requirement. Rep. Loertscher explained that there are a lot of real estate holdings that are not conflicts of interest, such as owning your own home.

Co-chair Lodge referring to page 2, 74-302, asked if a person who files one year and doesn't close out their campaign committee and files to run again, would they file another financial report? Rep. Loertscher said that it would be required before the application will be accepted.

Co-chair Wood asked if the language on page 3 in subsection 3-f would exclude retirement accounts managed by the 3rd party. Rep. Loertscher confirmed that they are excluded.

Rep. Vander Woude asked if someone sold their business and still was receiving payments, should he disclose them? Rep. Loertscher responded that it's not anticipated in this legislation that candidates, sitting legislators or officers have to report personal income, it only requires disclosure of anything that could be a conflict of interest.

Co-chair Lodge asked if the disclosure forms will be available online or as printed copies. Rep. Loertscher said that it will be electronic, but also available in print for the Senate and the House members.

Sen. Harris asked to clarify who could file a complaint. Rep. Loertscher said that the complaint could be received from anyone.

Sen. Lakey asked about set amounts for penalties vs. a penalty range. Rep. Loertscher responded that he is going to leave it to the discretion of the committee. Co-chair Wood noted that he preferred the set amount because otherwise the Secretary of State would need to determine the amount.

Sen. Harris requested the Secretary of State's opinion on administering the amounts. Sec. Denney said that he would prefer to have it as a set figure.

**Rep. Loertscher made motion to recommend DRKMF 026 to the legislature. Co-chair Wood seconded the motion. The motion passed unanimously.**

Co-chair Lodge opened discussion on the letter addressed to Rep. Wood from Brian Kane, Assistant Chief Deputy, Office of the Attorney General, in regards to limits on campaign contributions during the legislative session.

Rep. Wood addressed the committee and said that he contacted Brian Kane to hear an opinion regarding an "in-session" prohibition on solicitation and provision of contributions to legislators and their challenges. Mr. Kane provided a response with an example of potential draft legislation. In his letter, he referenced potential issues at federal court. Also, Mr. Kane provided information on 25 states which have some version of such a prohibition in place.

Co-chair Lodge said that from her experience in the legislature there has been an unwritten rule in the Senate that no one accepts contributions during the legislative session. She thinks that it might be a good idea to put this rule into legislation.

Co-chair Wood believes the same thing happens in the House of Representatives. In potential legislation, the rule would apply to all candidates running for the legislature.

Rep. Vander Woude asked to clarify if it applies to all of the candidates who have declared candidacy to raise money prior to the March filing deadline, while the legislature is in session. Co-chair Wood said that once you become a declared candidate, you shouldn't receive contributions during the legislative session.

Rep. Vander Woude asked if the Secretary of State's Office has seen many instances of contributions during the legislative session. Mr. Hurst said that they don't really see contributions during session because the first campaign report isn't due until two weeks before the election.

Rep. Vander Woude asked if the Secretary of State's Office will be able to track contributions during session with monthly reporting. Mr. Hurst confirmed

Co-chair Wood noted that he wants to see all candidates included in the legislation and the language be drafted narrowly enough to avoid any First Amendment concerns. He believes the topic needs more discussion.

Sen. Hagedorn noted that once the candidate files the C1 form, the candidate is required to file the reports on standard periodic dates and it would be reasonable to include all candidates in the legislation in terms of campaign contributions during session.

Rep. Dixon expressed concern that this will greatly benefit incumbents. He noted that if a person decides to run for a seat during the legislative session it greatly impairs the ability to raise funds.

Rep. Vander Woude asked if this would apply to money raised by PACs. Co-chair Wood said that this matter needs more discussion, but it does not apply to personal money.

Co-chair Wood said that anyone running is free to spend their own money. An issue arises where incumbents self-impose a limit on soliciting funds and receiving funds while the legislature is in session. All candidates – new and incumbents should be treated the same.

Rep. Vander Woude noted that until the filing deadline, those seats are open. People do not know whether they are going to run for that seat until they find out if that current incumbent is going to run again.

Co-chair Lodge mentioned that this does not limit spending one's own money, it just limits the spending of outside money.

Rep. Erpelding noted that he finds this legislation very problematic for candidates challenging incumbents. If the fundraising time is curtailed from January to March, there is not enough time to raise money for an election. This sets up the incumbent for more success and is an unfair situation.

Co-chair Wood said that it was not his intention to benefit one entity over another; however, if one decides to run for a seat, it should not be a spontaneous decision.

Co-chair Lodge stated she believes that this is an incentive to think about running beforehand rather than waiting until the last minute.

Rep. Loertscher noted that he would like to see the primary election moved to August.

Mr. McGrane presented data on the 2016 election cycle. In 2016, Jan 8 to March 31, there were 737 contributions to legislative candidates at a value of \$220,000.00. Sitting legislators received money during the session. There may even be members of the committee that had received money during the session.

Ms. Ford pointed out to the committee that the definition of "limited contributor" restricts contributions only from lobbyists and political committees rather than all contributions.

Sen. Stennett expressed concern about checks that come in late after fundraising, since some checks are asked for outside the session and received inside the session.

Co-chair Wood reiterated the point that personal funds are not subject to this restriction. It limits a very narrow spectrum of outside funds only. He asked the committee if it is worth more discussion or if the committee would like to dismiss the idea.

Rep. Erpelding noted that he could support legislation that prohibits contributions from PAC's or lobbyists during the session; however, personal contributions may be troublesome.

Co-chair Wood asked if the committee would think about taking those suggestions and refining the details.

**Sen. Lakey made a motion to ask for permission from leadership to continue the Campaign Finance working group's work the following interim. Co-chair Wood seconded the motion. The motion passed unanimously.**

**Co-chair Wood made a motion to state that the Campaign Finance Working Group supports the Secretary of State's funding request for reporting software. Sen. Harris seconded the motion.**

Rep. Vander Woude asked to clarify the amount the work group is going to recommend and if there is an intended limit on the budget request. Sec. Denney said that his office intends to work with the \$1.2 million requested, but will most likely request \$800,000 more for the update of the statewide voter registration system with GIS next year.

Rep. Vander Woude asked if there are programs the Secretary of State's office is looking to work with. Sec. Denney responded that vendors are very limited, but his office is looking into two programs.

Co-chair Wood clarified that the intent of the motion was to support \$1.2 million dollars.

**Co-chair Lodge called for a vote on the motion. The motion passed unanimously**

Co-chair Wood gave a brief summary of the work group's accomplishments.

Co-chair Lodge thanked the work group, the Secretary of State's office, LSO staff and guests who participated for their hard work this interim.

**The work group adjourned at 11:50 a.m.**