

DRAFT

DRKMF271

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature Second Regular Session - 2018

This bill draft contains confidential and privileged information exempt from disclosure under Section 74-109(1), Idaho Code. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning the Legislative Services Office at (208) 334-2475.

1 AN ACT
2 RELATING TO CAMPAIGN FINANCE; AMENDING SECTION 67-6602, IDAHO CODE, TO RE-
3 VISE DEFINITIONS; AND AMENDING SECTION 67-6625, IDAHO CODE, TO REVISE
4 THE CIVIL FINE FOR A VIOLATION.

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

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

8 67-6602. DEFINITIONS. As used in this chapter, the following terms
9 have the following meanings:

10 (a~~1~~) "Candidate" means an individual who has ~~taken affirmative action~~
11 ~~to seek nomination or election to public office. An individual shall be~~
12 ~~deemed to have taken affirmative action to seek such nomination or election~~
13 ~~to public office when he first:~~

14 ~~(1) Receives contributions or makes expenditures or reserves space or~~
15 ~~facilities with intent to promote his candidacy for office; or~~
16 ~~(2) Announces publicly or files for office~~
17 seeks nomination, election or reelection to public office and who has:

- 18 (a) Announced his or her candidacy publicly;
- 19 (b) Filed for public office;
- 20 (c) Received a contribution for the purpose of promoting his or her can-
21 didacy for office; or
- 22 (d) Made an expenditure, contracted for services or reserved space with
23 the intent of promoting his or her candidacy for office.

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

33 (b~~2~~) "Compensation" includes any advance, conveyance, forgiveness of
34 indebtedness, deposit, distribution, loan, payment, gift, pledge or trans-
35 fer of money or anything of value, and any contract, agreement, promise or
36 other obligation, whether or not legally enforceable, to do any of the fore-
37 going, for services rendered or to be rendered, but does not include reim-
38 bursement of expenses if such reimbursement does not exceed the amount ac-
39 tually expended for such expenses and is substantiated by an itemization of
40 such expenses.

41 (e~~3~~) "Contribution" includes any advance, conveyance, forgiveness of
42 indebtedness, deposit, distribution, loan, payment, gift, pledge, sub-

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

21 (d4) "Election" means any general, special or primary election.

22 (e5) "Election campaign" means any campaign in support of or in opposi-
23 tion to a candidate for election to public office and any campaign in support
24 of, or in opposition to, a measure.

25 (f6) (1a) "Electioneering communication" means any communication
26 broadcast by television or radio, printed in a newspaper or on a bill-
27 board, directly mailed or delivered by hand to personal residences, or
28 telephone calls made to personal residences, or otherwise distributed
29 that:

- 30 (i) Unambiguously refers to any candidate; and
- 31 (ii) Is broadcasted, printed, mailed, delivered, made or dis-
32 tributed within thirty (30) days before a primary election or
33 sixty (60) days before a general election; and
- 34 (iii) Is broadcasted to, printed in a newspaper, distributed to,
35 mailed to or delivered by hand to, telephone calls made to, or
36 otherwise distributed to an audience that includes members of the
37 electorate for such public office.

38 (2b) "Electioneering communication" does not include:

- 39 (i) Any news articles, editorial endorsements, opinion or com-
40 mentary, writings, or letter to the editor printed in a newspaper,
41 magazine, or other periodical not owned or controlled by a candi-
42 date or political party;
- 43 (ii) Any editorial endorsements or opinions aired by a broad-
44 cast facility not owned or controlled by a candidate or political
45 party;
- 46 (iii) Any communication by persons made in the regular course and
47 scope of their business or any communication made by a membership
48 organization solely to members of such organization and their fam-
49 ilies;

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

3 (v) A communication which constitutes an expenditure or an inde-
4 pendent expenditure under this chapter.

5 (~~g~~7) "Executive official" means:

6 (~~1~~a) The governor, lieutenant governor, secretary of state, state con-
7 troller, state treasurer, attorney general, superintendent of public
8 instruction and any deputy or staff member of one (1) of those individ-
9 uals who, within the course and scope of his or her employment, is di-
10 rectly involved in major policy influencing decisions for the office;

11 (~~2~~b) A state department or agency director, deputy director, division
12 administrator or bureau chief as established and enumerated in sections
13 67-2402 and 67-2406, Idaho Code;

14 (~~3~~c) The membership and the executive or chief administrative officer
15 of any board or commission that is authorized to make rules or conduct
16 rulemaking activities pursuant to section 67-5201, Idaho Code;

17 (~~4~~d) The membership and the executive or chief administrative officer
18 of any board or commission that governs any of the state departments
19 enumerated in section 67-2402, Idaho Code, not including public school
20 districts;

21 (~~5~~e) The membership and the executive or chief administrative officer
22 of the Idaho public utilities commission, the Idaho industrial commis-
23 sion, and the Idaho state tax commission; and

24 (~~6~~f) The members of the governing board of the state insurance fund, and
25 the members of the governing board and the executive or chief adminis-
26 trative officer of the Idaho housing and finance association, the Idaho
27 energy resources authority, and the Idaho state building authority.

28 (~~h~~8) "Expenditure" includes any payment, contribution, subscription,
29 distribution, loan, advance, deposit, or gift of money or anything of value,
30 and includes a contract, promise, or agreement, whether or not legally en-
31 forceable, to make an expenditure. The term "expenditure" also includes a
32 promise to pay, a payment or a transfer of anything of value in exchange for
33 goods, services, property, facilities or anything of value for the purpose
34 of assisting, benefiting or honoring any public official or candidate, or
35 assisting in furthering or opposing any election campaign.

36 (~~i~~9) "Independent expenditure" means any expenditure by a person
37 for a communication expressly advocating the election, passage or defeat
38 of a clearly identified candidate or measure that is not made with the
39 cooperation or with the prior consent of, or in consultation with, or at
40 the consent of, or in consultation with, or at the request of a sugges-
41 tion of, a candidate or any agent or authorized committee of the candidate
42 collaboration or coordination of a candidate or his agent, employee, volun-
43 teer, or political committee supporting or opposing a measure. As used in
44 this subsection, "expressly advocating" means any communication containing
45 a message advocating election, passage or defeat including, but not limited
46 to, the name of the candidate or measure, or expression such as "vote for,"
47 "elect," "support," "cast your ballot for," "vote against," "defeat" or
48 "reject."

49 (~~j~~10) "Lobby" and "lobbying" each means attempting through contacts
50 with, or causing others to make contact with, members of the legislature or

1 legislative committees or an executive official, to influence the approval,
2 modification or rejection of any legislation by the legislature of the state
3 of Idaho or any committee thereof or by the governor or to develop or main-
4 tain relationships with, promote goodwill with, or entertain members of the
5 legislature or executive officials. "Lobby" and "lobbying" shall also mean
6 communicating with an executive official for the purpose of influencing the
7 consideration, amendment, adoption or rejection of any rule or rulemaking as
8 defined in section 67-5201, Idaho Code, or any ratemaking decision, procure-
9 ment, contract, bid or bid process, financial services agreement, or bond
10 issue. Neither "lobby" nor "lobbying" includes an association's or other
11 organization's act of communicating with the members of that association
12 or organization; and provided that neither "lobby" nor "lobbying" includes
13 communicating with an executive official for the purpose of carrying out
14 ongoing negotiations following the award of a bid or a contract, communica-
15 tions involving ongoing legal work and negotiations conducted by and with
16 attorneys for executive agencies, interactions between parties in litiga-
17 tion or other contested matters, or communications among and between members
18 of the legislature and executive officials and their employees, or by state
19 employees while acting in their official capacity or within the course and
20 scope of their employment.

21 (~~¶~~11) "Lobbyist" includes any person who lobbies.

22 (~~¶~~12) "Lobbyist's employer" means the person or persons by whom a lob-
23 byist is employed, directly or indirectly, and all persons by whom he is com-
24 pensated for acting as a lobbyist.

25 (~~¶~~13) "Measure" means any proposal, to be voted statewide, submitted
26 to the people for their approval or rejection at an election, including any
27 initiative, referendum, recall election for statewide or legislative dis-
28 trict offices, or revision of or amendment to the state constitution. An
29 initiative or referendum proposal shall be deemed a measure when the attor-
30 ney general reviews it and gives it a ballot title. A recall shall be deemed
31 a measure upon approval of the recall petition as to form pursuant to section
32 34-1704, Idaho Code.

33 (~~¶~~14) "Nonbusiness entity" means any group of two (2) or more individu-
34 als, corporation, association, firm, partnership, committee, club or other
35 organization which:

36 (~~¶~~a) Does not have as its principal purpose the conduct of business ac-
37 tivities for profit; and

38 (~~¶~~b) Received during the preceding or current calendar year contribu-
39 tions, gifts or membership fees, which in the aggregate exceeded ten
40 percent (10%) of its total receipts for such year.

41 (~~¶~~15) "Person" means an individual, corporation, association, firm,
42 partnership, committee, political party, club or other organization or
43 group of persons.

44 (~~¶~~16) "Political committee" means:

45 (~~¶~~a) Any person specifically designated to support or oppose any candi-
46 date or measure; or

47 (~~¶~~b) Any person who receives contributions and makes expenditures in
48 an amount exceeding five hundred dollars (\$500) in any calendar year
49 for the purpose of supporting or opposing one (1) or more candidates or
50 measures. Any entity registered with the federal election commission

1 shall not be considered a political committee for purposes of this chap-
2 ter.

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

7 (417) "Political treasurer" means an individual appointed by a candi-
8 date or political committee as provided in section 67-6603, Idaho Code.

9 (418) "Public office" means any state office or position, state sena-
10 tor, state representative, and judge of the district court that is filled by
11 election.

12 SECTION 2. That Section 67-6625, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 67-6625. VIOLATIONS -- CIVIL FINE -- MISDEMEANOR PENALTY -- PROSE-
15 CUTION -- LIMITATION -- VENUE. (1) Any person who violates the provisions
16 of sections 67-6603, 67-6604, 67-6606 through 67-6614A, 67-6617, 67-6619,
17 67-6620, 67-6621(1), 67-6624, 67-6627 or 67-6628, Idaho Code, shall be li-
18 able for a civil fine not to exceed ~~two hundred fifty dollars (\$250) if an~~
19 ~~individual, and not more than two thousand five hundred dollars (\$2,500) if~~
20 ~~a person other than an individual~~ one thousand dollars (\$1,000). The burden
21 of proof for such civil liability shall be met by showing a preponderance of
22 the evidence.

23 (2) Any person who violates section 67-6605 or 67-6621(2), Idaho
24 Code, and any person who knowingly and willfully violates sections 67-6603
25 through 67-6614A, 67-6617, 67-6619, 67-6620, 67-6621(1), 67-6624, 67-6627
26 or 67-6628, Idaho Code, is guilty of a misdemeanor and, upon conviction, in
27 addition to the fines set forth in subsection (1) of this section, may be
28 imprisoned for not more than six (6) months or be both fined and imprisoned.

29 (3) The attorney general or the appropriate prosecuting attorney may
30 prosecute any violations of this act.

31 (4) Prosecution for violation of this act must be commenced within two
32 (2) years after the date on which the violation occurred.

33 (5) Venue for prosecution under the provisions of this chapter shall be
34 in the county of residence of the defendant if the defendant is a resident of
35 the state of Idaho, otherwise venue shall be in Ada county.