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LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

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1 AN ACT
2 RELATING TO CAMPAIGN FINANCE; AMENDING SECTION 67-6602, IDAHO CODE, TO RE-
3 VISE AND PROVIDE DEFINITIONS; AMENDING SECTION 67-6611, IDAHO CODE, TO
4 REVISE THE FILING DEADLINES FOR REPORTING INDEPENDENT EXPENDITURES;
5 AND AMENDING SECTION 67-6628, IDAHO CODE, TO REVISE THE FILING DEAD-
6 LINES FOR REPORTING ELECTIONEERING COMMUNICATIONS AND TO REQUIRE A
7 LEGIBLE AUTHORITY LINE IN ELECTIONEERING COMMUNICATIONS.

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

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

11 67-6602. DEFINITIONS. As used in this chapter, the following terms
12 have the following meanings:

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

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

19 ~~(2) Announces publicly or files for office~~
20 seeks nomination, election or reelection to public office and who has taken
21 any of the following actions:

22 (a) Announced his or her candidacy publicly;

23 (b) Filed for public office;

24 (c) Received a contribution for the purpose of promoting his or her can-
25 didacy for office; or

26 (d) Made an expenditure, contracted for services or reserved space with
27 the intent of promoting his or her candidacy for office.

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

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

1 tually expended for such expenses and is substantiated by an itemization of
2 such expenses.

3 (e3) "Contribution" includes any advance, conveyance, forgiveness of
4 indebtedness, deposit, distribution, loan, payment, gift, pledge, sub-
5 scription or transfer of money or anything of value, and any contract, agree-
6 ment, promise or other obligation, whether or not legally enforceable, to
7 make a contribution, in support of or in opposition to any candidate, polit-
8 ical committee or measure. Such term also includes personal funds or other
9 property of a candidate or members of his household expended or transferred
10 to cover expenditures incurred in support of such candidate but does not
11 include personal funds used to pay the candidate filing fee. Such term also
12 includes the rendering of personal and professional services for less than
13 full consideration, but does not include ordinary home hospitality or the
14 rendering of "part-time" personal services of the sort commonly performed
15 by volunteer campaign workers or advisors or incidental expenses not in ex-
16 cess of twenty-five dollars (\$25.00) personally paid for by any volunteer
17 campaign worker. "Part-time" services, for the purposes of this definition,
18 means services in addition to regular full-time employment, or, in the case
19 of an unemployed person or persons engaged in part-time employment, services
20 rendered without compensation or reimbursement of expenses from any source
21 other than the candidate or political committee for whom such services are
22 rendered. For the purposes of this act, contributions, other than money or
23 its equivalent shall be deemed to have a money value equivalent to the fair
24 market value of the contribution.

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

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

29 (f6) (1a) "Electioneering communication" means any paid communication
30 to members of the public that include voters or potential voters for
31 public office or a ballot measure, that takes place between 5:00 p.m. on
32 the candidate filing deadline set forth in section 34-704, Idaho Code,
33 and midnight on the date of the general election, and that unambiguously
34 refers to a specific candidate or measure to be on the ballot. An elec-
35 tioneering communication expenditure is made when any portion of the
36 communication reaches members of the public who are voters or potential
37 voters. An electioneering communication includes, but is not limited
38 to, a message broadcast by television or radio, printed in a newspaper
39 or on a billboard, directly mailed or delivered by hand to personal res-
40 idences, or telephone calls made by telephone to personal residences or
41 cellular numbers, sent by electronic mail or messaging, or otherwise
42 distributed that: advertised on the internet or through social media

- 43 ~~(i) Unambiguously refers to any candidate; and~~
- 44 ~~(ii) Is broadcasted, printed, mailed, delivered, made or dis-~~
45 ~~tributed within thirty (30) days before a primary election or~~
46 ~~sixty (60) days before a general election; and~~
- 47 ~~(iii) Is broadcasted to, printed in a newspaper, distributed to,~~
48 ~~mailed to or delivered by hand to, telephone calls made to, or~~
49 ~~otherwise distributed to an audience that includes members of the~~
50 ~~electorate for such public office~~

1 .
2 (2b) "Electioneering communication" does not include:
3 (i) Any news articles, editorial endorsements, opinion or com-
4 mentary, writings, or letter to the editor printed in a newspaper,
5 magazine, or other periodical not owned or controlled by a candi-
6 date or political party;
7 (ii) Any editorial endorsements or opinions aired by a broad-
8 cast facility not owned or controlled by a candidate or political
9 party;
10 (iii) Any communication by persons made in the regular course and
11 scope of their business or any communication made by a membership
12 organization solely to members of such organization and their fam-
13 ilies;
14 (iv) Any communication which refers to any candidate only as part
15 of the popular name of a bill or statute;
16 (v) A communication which constitutes an expenditure or an inde-
17 pendent expenditure under this chapter.
18 (3~~7~~) "Executive official" means:
19 (1a) The governor, lieutenant governor, secretary of state, state con-
20 troller, state treasurer, attorney general, superintendent of public
21 instruction and any deputy or staff member of one (1) of those individ-
22 uals who, within the course and scope of his or her employment, is di-
23 rectly involved in major policy influencing decisions for the office;
24 (2b) A state department or agency director, deputy director, division
25 administrator or bureau chief as established and enumerated in sections
26 67-2402 and 67-2406, Idaho Code;
27 (3c) The membership and the executive or chief administrative officer
28 of any board or commission that is authorized to make rules or conduct
29 rulemaking activities pursuant to section 67-5201, Idaho Code;
30 (4d) The membership and the executive or chief administrative officer
31 of any board or commission that governs any of the state departments
32 enumerated in section 67-2402, Idaho Code, not including public school
33 districts;
34 (5e) The membership and the executive or chief administrative officer
35 of the Idaho public utilities commission, the Idaho industrial commis-
36 sion, and the Idaho state tax commission; and
37 (6f) The members of the governing board of the state insurance fund, and
38 the members of the governing board and the executive or chief adminis-
39 trative officer of the Idaho housing and finance association, the Idaho
40 energy resources authority, and the Idaho state building authority.
41 (h8) "Expenditure" includes any payment, contribution, subscription,
42 distribution, loan, advance, deposit, or gift of money or anything of value,
43 and includes a contract, promise, or agreement, whether or not legally en-
44 forceable, to make an expenditure. The term "expenditure" also includes a
45 promise to pay, a payment or a transfer of anything of value in exchange for
46 goods, services, property, facilities or anything of value for the purpose
47 of assisting, benefiting or honoring any public official or candidate, or
48 assisting in furthering or opposing any election campaign. For the purpose
49 of making a report required under this chapter and unless otherwise speci-

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1 fied in statute, an expenditure is made at the time the funds have been obli-
2 gated or committed, whether by oral or written agreement.

3 (~~§~~9) "Independent expenditure" means any expenditure by a person
4 for a communication expressly advocating the election, passage or defeat
5 of a clearly identified candidate or measure that is not made with the
6 cooperation or with the prior consent of, or in consultation with, or at
7 the consent of, or in consultation with, or at the request of a sugges-
8 tion of, a candidate or any agent or authorized committee of the candidate
9 collaboration or coordination of a candidate or his agent, employee, volun-
10 teer, or political committee supporting or opposing a measure. As used in
11 this subsection, "expressly advocating" means any communication containing
12 a message advocating election, passage or defeat including, but not limited
13 to, the name of the candidate or measure, or expression such as "vote for,"
14 "elect," "support," "cast your ballot for," "vote against," "defeat" or "re-
15 ject." For the purpose of making any reports required under this chapter, an
16 independent expenditure is made at the time any portion of goods is delivered
17 or any portion of services is provided.

18 (~~§~~10) "Lobby" and "lobbying" each means attempting through contacts
19 with, or causing others to make contact with, members of the legislature or
20 legislative committees or an executive official, to influence the approval,
21 modification or rejection of any legislation by the legislature of the state
22 of Idaho or any committee thereof or by the governor or to develop or main-
23 tain relationships with, promote goodwill with, or entertain members of the
24 legislature or executive officials. "Lobby" and "lobbying" shall also mean
25 communicating with an executive official for the purpose of influencing the
26 consideration, amendment, adoption or rejection of any rule or rulemaking as
27 defined in section 67-5201, Idaho Code, or any ratemaking decision, procure-
28 ment, contract, bid or bid process, financial services agreement, or bond
29 issue. Neither "lobby" nor "lobbying" includes an association's or other
30 organization's act of communicating with the members of that association
31 or organization; and provided that neither "lobby" nor "lobbying" includes
32 communicating with an executive official for the purpose of carrying out
33 ongoing negotiations following the award of a bid or a contract, communica-
34 tions involving ongoing legal work and negotiations conducted by and with
35 attorneys for executive agencies, interactions between parties in litiga-
36 tion or other contested matters, or communications among and between members
37 of the legislature and executive officials and their employees, or by state
38 employees while acting in their official capacity or within the course and
39 scope of their employment.

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

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

44 (~~¶~~13) "Measure" means any proposal, to be voted statewide, submitted
45 to the people for their approval or rejection at an election, including any
46 initiative, referendum, recall election for statewide or legislative dist-
47 rict offices, or revision of or amendment to the state constitution. An
48 initiative or referendum proposal shall be deemed a measure when the attor-
49 ney general reviews it and gives it a ballot title. A recall shall be deemed

1 a measure upon approval of the recall petition as to form pursuant to section
2 34-1704, Idaho Code.

3 (~~¶14~~) "Nonbusiness entity" means any group of two (2) or more individu-
4 als, corporation, association, firm, partnership, committee, club or other
5 organization which:

6 (~~1a~~) Does not have as its principal purpose the conduct of business ac-
7 tivities for profit; and

8 (~~2b~~) Received during the preceding or current calendar year contribu-
9 tions, gifts or membership fees, which in the aggregate exceeded ten
10 percent (10%) of its total receipts for such year.

11 (~~¶15~~) "Person" means an individual, corporation, association, firm,
12 partnership, committee, political party, club or other organization or
13 group of persons.

14 (~~¶16~~) "Political committee" means:

15 (~~1a~~) Any person specifically designated to support or oppose any candi-
16 date or measure; or

17 (~~2b~~) Any person who receives contributions and makes expenditures in
18 an amount exceeding five hundred dollars (\$500) in any calendar year
19 for the purpose of supporting or opposing one (1) or more candidates or
20 measures. Any entity registered with the federal election commission
21 shall not be considered a political committee for purposes of this chap-
22 ter.

23 (~~3c~~) A county, district or regional committee of a recognized politi-
24 cal party shall not be considered a political committee for the purposes
25 of this chapter unless such party committee has expenditures exceeding
26 five thousand dollars (\$5,000) in a calendar year.

27 (~~¶17~~) "Political treasurer" means an individual appointed by a candi-
28 date or political committee as provided in section 67-6603, Idaho Code.

29 (~~¶18~~) "Public office" means any state office or position, state sena-
30 tor, state representative, and judge of the district court that is filled by
31 election.

32 (19) "Social media" means forms of electronic communication, includ-
33 ing websites, applications or software for social networking or blogging,
34 through which users create a personal profile and participate in online com-
35 munities to share information, ideas, and other content.

36 SECTION 2. That Section 67-6611, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 67-6611. INDEPENDENT EXPENDITURES. (1) Each person who makes inde-
39 pendent expenditures in an aggregate amount exceeding one hundred dollars
40 (\$100) in support of or in opposition to any one (1) candidate, political
41 committee or measure, shall file a statement of the expenditure with the
42 secretary of state.

43 (2) Statements shall be filed with the secretary of state ~~,not less than~~
44 ~~seven (7) days prior to the primary and general election and thirty (30) days~~
45 ~~after the primary and general election~~ by the tenth day of the month follow-
46 ing the month during which the expenditure was incurred.

47 (3) The statement shall contain the following information: (a) the
48 name and address of any person to whom an expenditure in excess of fifty dol-

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1 lars (\$50.00) has been made by any such person in support of or in opposition
2 to any such candidate or issue during the reporting period, together with the
3 amount, date and purpose of each such expenditure; and (b) the total sum of
4 all expenditures made in support of or in opposition to any such candidate or
5 measure.

6 (4) In addition to the requirements set forth in subsections (1) and (2)
7 of this section, each person who makes independent expenditures in an aggre-
8 gate amount of one thousand dollars (\$1,000) or more ~~after the sixteenth day~~
9 ~~before, but more than forty-eight (48) hours before,~~ any primary or general
10 election, shall file a written statement of the expenditure with the secre-
11 tary of state ~~not more than~~ within forty-eight (48) hours from the time of
12 such expenditure. The statement shall include the information required in
13 subsection (3) of this section.

14 SECTION 3. That Section 67-6628, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 67-6628. ELECTIONEERING COMMUNICATIONS -- STATEMENTS. (1) Any per-
17 son who ~~conducts or transmits any~~ incurs costs in an aggregate amount exceed-
18 ing one hundred dollars (\$100) when making an electioneering communication
19 shall be required to file a statement on a form provided by with the secre-
20 tary of state. Contents of the statement shall include the amount spent on
21 such communications, the name and address of the person, and the names and
22 addresses of any persons who contribute fifty dollars (\$50.00) or more to any
23 person described in this section. The statement shall be filed by the tenth
24 day of the month following the month during which the expenditure was made.

25 ~~(2) Any person that incurs costs in excess of one hundred dollars (\$100)~~
26 ~~when making an electioneering communication shall file a statement in accor-~~
27 ~~dance with the time limits established by section 67-6611(2), Idaho Code.~~

28 ~~(3)~~ In addition to the requirements of subsection (2) of this section,
29 any person that incurs costs in an aggregate amount of one thousand dollars
30 (\$1,000) or more when making an electioneering communication shall file a
31 statement as provided in subsection (1) of this section within forty-eight
32 (48) hours of incurring the costs for such communication.

33 (3) Every electioneering communication shall contain an authority line
34 that states the name of the candidate, political committee, or other person
35 responsible for the communication.

36 (4) All information required by this section to be on an electioneering
37 communication shall appear in a font size and type that is plainly legible.