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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 DEFINITIONS; AND AMENDING SECTION 67-6611, IDAHO CODE, TO REVISE
4 THE REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES.

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 taken
18 any of the following actions:

19 (a) Announced his or her candidacy publicly;

20 (b) Filed for public office;

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

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

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

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

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

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

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

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

41 ~~(i) Unambiguously refers to any candidate; and~~

42 ~~(ii) Is broadcasted, printed, mailed, delivered, made or dis-~~
43 ~~tributed within thirty (30) days before a primary election or~~
44 ~~sixty (60) days before a general election; and~~

45 ~~(iii) Is broadcasted to, printed in a newspaper, distributed to,~~
46 ~~mailed to or delivered by hand to, telephone calls made to, or~~
47 ~~otherwise distributed to an audience that includes members of the~~
48 ~~electorate for such public office~~

49 .
50 (2b) "Electioneering communication" does not include:

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

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

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

38 (±11) "Lobbyist" includes any person who lobbies.

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

42 (±13) "Measure" means any proposal, to be voted statewide, submitted
43 to the people for their approval or rejection at an election, including any
44 initiative, referendum, recall election for statewide or legislative dis-
45 trict offices, or revision of or amendment to the state constitution. An
46 initiative or referendum proposal shall be deemed a measure when the attor-
47 ney general reviews it and gives it a ballot title. A recall shall be deemed
48 a measure upon approval of the recall petition as to form pursuant to section
49 34-1704, Idaho Code.

1 (~~¶14~~) "Nonbusiness entity" means any group of two (2) or more individu-
2 als, corporation, association, firm, partnership, committee, club or other
3 organization which:

4 (~~1a~~) Does not have as its principal purpose the conduct of business ac-
5 tivities for profit; and

6 (~~2b~~) Received during the preceding or current calendar year contribu-
7 tions, gifts or membership fees, which in the aggregate exceeded ten
8 percent (10%) of its total receipts for such year.

9 (~~¶15~~) "Person" means an individual, corporation, association, firm,
10 partnership, committee, political party, club or other organization or
11 group of persons.

12 (~~¶16~~) "Political committee" means:

13 (~~1a~~) Any person specifically designated to support or oppose any candi-
14 date or measure; or

15 (~~2b~~) Any person who receives contributions and makes expenditures in
16 an amount exceeding five hundred dollars (\$500) in any calendar year
17 for the purpose of supporting or opposing one (1) or more candidates or
18 measures. Any entity registered with the federal election commission
19 shall not be considered a political committee for purposes of this chap-
20 ter.

21 (~~3c~~) A county, district or regional committee of a recognized politi-
22 cal party shall not be considered a political committee for the purposes
23 of this chapter unless such party committee has expenditures exceeding
24 five thousand dollars (\$5,000) in a calendar year.

25 (~~¶17~~) "Political treasurer" means an individual appointed by a candi-
26 date or political committee as provided in section 67-6603, Idaho Code.

27 (~~¶18~~) "Public office" means any state office or position, state sena-
28 tor, state representative, and judge of the district court that is filled by
29 election.

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

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

36 67-6611. INDEPENDENT EXPENDITURES. (1) Each person who makes inde-
37 pendent expenditures in an aggregate amount exceeding one hundred dollars
38 (\$100) in support of or in opposition to any one (1) candidate, political
39 committee or measure, shall file a statement of the expenditure with the
40 secretary of state.

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

45 (3) The statement shall contain the following information:

46 (a) the name and address of any person to whom an expenditure in excess
47 of fifty dollars (\$50.00) has been made by any such person in support of
48 or in opposition to any such candidate or issue during the reporting pe-

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1 rioid, together with the amount, date and purpose of each such expendi-
2 ture; and
3 (b) the total sum of all expenditures made in support of or in opposition
4 to any such candidate or measure;
5 (c) the identification of each person who made an aggregate contribu-
6 tion in excess of two hundred dollars (\$200) to the person during the
7 calendar year, together with the date and amount of each contribution;
8 and
9 (d) the identification of each person who made a contribution in ex-
10 cess of fifty dollars (\$50) to the person filing the statement, which
11 was made for the purpose of furthering an independent expenditure.
12 (4) In addition to the requirements ~~set forth in subsections (1) and (2)~~
13 of this section, each person who makes independent expenditures in an aggre-
14 gate amount of one thousand dollars (\$1,000) or more ~~after the sixteenth day~~
15 ~~before, but more than forty-eight (48) hours before,~~ any primary or general
16 election, shall file a written statement of the expenditure with the secre-
17 tary of state not more than forty-eight (48) hours from the time of such ex-
18 penditure. The statement shall include the information required in subsec-
19 tion (3) of this section.

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