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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 AND
5 TO REQUIRE CERTAIN DISCLOSURES; AND AMENDING SECTION 67-6628, IDAHO
6 CODE, TO REVISE THE FILING DEADLINES FOR REPORTING ELECTIONEERING COM-
7 MUNICATIONS AND TO REQUIRE A LEGIBLE AUTHORITY LINE IN ELECTIONEERING
8 COMMUNICATIONS.

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

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

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

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

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

20 (2) Announces publicly or files for office.

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

30 (b~~2~~) "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 (e~~3~~) "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 (d4) "Election" means any general, special or primary election.

19 (e5) "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 (f6) (1a) "Electioneering communication" means any paid communication
23 to members of the public that include voters or potential voters for
24 public office or a ballot measure, that takes place between 5:00 p.m. on
25 the candidate filing deadline set forth in section 34-704, Idaho Code,
26 and midnight on the date of the general election, and that unambiguously
27 refers to a specific candidate or measure to be on the ballot. An elec-
28 tioneering communication expenditure is made when any portion of the
29 communication reaches members of the public who are voters or potential
30 voters. An electioneering communication includes, but is not limited
31 to, a message broadcast by television or radio, printed in a newspaper
32 or on a billboard, directly mailed or delivered by hand to personal res-
33 idences, or telephone calls made by telephone to personal residences or
34 cellular numbers, sent by electronic mail or messaging, or otherwise
35 distributed that: advertised on the internet or through social media

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

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

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

44 .
45 (2b) "Electioneering communication" does not include:

46 (i) Any news articles, editorial endorsements, opinion or com-
47 mentary, writings, or letter to the editor printed in a newspaper,
48 magazine, or other periodical not owned or controlled by a candi-
49 date, political committee, or political party;

1 (ii) Any editorial endorsements or opinions aired by a broadcast
2 facility not owned or controlled by a candidate, political commit-
3 tee, or political party;
4 (iii) Any communication by persons made in the regular course and
5 scope of their business or any communication made by a membership
6 organization solely to members of such organization and their fam-
7 ilies;
8 (iv) Any communication which refers to any candidate only as part
9 of the popular name of a bill or statute;
10 (v) A communication which constitutes an expenditure or an inde-
11 pendent expenditure under this chapter.

12 (~~7~~) "Executive official" means:
13 (~~1a~~) The governor, lieutenant governor, secretary of state, state con-
14 troller, state treasurer, attorney general, superintendent of public
15 instruction and any deputy or staff member of one (1) of those individ-
16 uals who, within the course and scope of his or her employment, is di-
17 rectly involved in major policy influencing decisions for the office;
18 (~~2b~~) A state department or agency director, deputy director, division
19 administrator or bureau chief as established and enumerated in sections
20 67-2402 and 67-2406, Idaho Code;
21 (~~3c~~) The membership and the executive or chief administrative officer
22 of any board or commission that is authorized to make rules or conduct
23 rulemaking activities pursuant to section 67-5201, Idaho Code;
24 (~~4d~~) The membership and the executive or chief administrative officer
25 of any board or commission that governs any of the state departments
26 enumerated in section 67-2402, Idaho Code, not including public school
27 districts;
28 (~~5e~~) The membership and the executive or chief administrative officer
29 of the Idaho public utilities commission, the Idaho industrial commis-
30 sion, and the Idaho state tax commission; and
31 (~~6f~~) The members of the governing board of the state insurance fund, and
32 the members of the governing board and the executive or chief adminis-
33 trative officer of the Idaho housing and finance association, the Idaho
34 energy resources authority, and the Idaho state building authority.

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

43 (~~9~~) "Independent expenditure" means any expenditure by a person
44 for a communication expressly advocating the election, passage or defeat
45 of a clearly identified candidate or measure that is not made with the
46 coordination of a candidate or any agent, paid or unpaid, of the candidate,
47 or with the political committee supporting or opposing a measure. The term
48 coordination means with the cooperation or with the prior consent of, or in
49 consultation with, ~~or at the consent of, or in consultation with,~~ or at the
50 request ~~of~~ or a suggestion of, or in concert with a candidate or any agent

1 or authorized committee of the candidate or political committee supporting
2 or opposing a measure. As used in this subsection, "expressly advocating"
3 means any communication containing a message advocating election, pas-
4 sage or defeat including, but not limited to, the name of the candidate or
5 measure, or expression such as "vote for," "elect," "support," "cast your
6 ballot for," "vote against," "defeat" or "reject." An expenditure shall
7 constitute an expenditure in coordination with a candidate or political com-
8 mittee and shall not constitute an independent expenditure where:

9 (a) There is any arrangement, coordination or direction with respect to
10 the expenditure between the candidate or candidate's agent, or the po-
11 litical committee's agents, and the person, including any officer, di-
12 rector, employee or agent of the person, making the expenditure;

13 (b) The person making the expenditure or any of its agents has advised
14 or counseled the candidate or political committee or their agents on
15 the candidate or political committee's plans, projects, or needs re-
16 lating to the candidate or political committee's pursuit of nomination
17 or election, in the same election period, including any advice relating
18 to the candidate's decision to seek office or the political committee's
19 decision to support or oppose the ballot measure; or

20 (c) The expenditure is based on information provided to the person
21 making the expenditure directly or indirectly by the candidate or his
22 agents, or by the agents of the political committee, about the candidate
23 or political committee's plans, projects or needs; provided that the
24 candidate or his agent or the political committee's agent is aware that
25 the other person has made or is planning to make expenditures advocating
26 the candidate's election or the ballot measure's passage.

27 (j10) "Lobby" and "lobbying" each means attempting through contacts
28 with, or causing others to make contact with, members of the legislature or
29 legislative committees or an executive official, to influence the approval,
30 modification or rejection of any legislation by the legislature of the state
31 of Idaho or any committee thereof or by the governor or to develop or main-
32 tain relationships with, promote goodwill with, or entertain members of the
33 legislature or executive officials. "Lobby" and "lobbying" shall also mean
34 communicating with an executive official for the purpose of influencing the
35 consideration, amendment, adoption or rejection of any rule or rulemaking as
36 defined in section 67-5201, Idaho Code, or any ratemaking decision, procure-
37 ment, contract, bid or bid process, financial services agreement, or bond
38 issue. Neither "lobby" nor "lobbying" includes an association's or other
39 organization's act of communicating with the members of that association
40 or organization; and provided that neither "lobby" nor "lobbying" includes
41 communicating with an executive official for the purpose of carrying out
42 ongoing negotiations following the award of a bid or a contract, communica-
43 tions involving ongoing legal work and negotiations conducted by and with
44 attorneys for executive agencies, interactions between parties in litiga-
45 tion or other contested matters, or communications among and between members
46 of the legislature and executive officials and their employees, or by state
47 employees while acting in their official capacity or within the course and
48 scope of their employment.

49 (k11) "Lobbyist" includes any person who lobbies.

1 (~~12~~) "Lobbyist's employer" means the person or persons by whom a lob-
2 byist is employed, directly or indirectly, and all persons by whom he is com-
3 pensated for acting as a lobbyist.

4 (~~13~~) "Measure" means any proposal, to be voted statewide, submitted
5 to the people for their approval or rejection at an election, including any
6 initiative, referendum, recall election for statewide or legislative dis-
7 trict offices, or revision of or amendment to the state constitution. An
8 initiative or referendum proposal shall be deemed a measure when the attor-
9 ney general reviews it and gives it a ballot title. A recall shall be deemed
10 a measure upon approval of the recall petition as to form pursuant to section
11 34-1704, Idaho Code.

12 (~~14~~) "Nonbusiness entity" means any group of two (2) or more individu-
13 als, corporation, association, firm, partnership, committee, club or other
14 organization which:

15 (~~1a~~) Does not have as its principal purpose the conduct of business ac-
16 tivities for profit; and

17 (~~2b~~) Received during the preceding or current calendar year contribu-
18 tions, gifts or membership fees, which in the aggregate exceeded ten
19 percent (10%) of its total receipts for such year.

20 (~~15~~) "Person" means an individual, corporation, association, firm,
21 partnership, committee, political party, club or other organization or
22 group of persons.

23 (~~16~~) "Political committee" means:

24 (~~1a~~) Any person specifically designated to support or oppose any candi-
25 date or measure; or

26 (~~2b~~) Any person who receives contributions and makes expenditures in
27 an amount exceeding five hundred dollars (\$500) in any calendar year
28 for the purpose of supporting or opposing one (1) or more candidates or
29 measures. Any entity registered with the federal election commission
30 shall not be considered a political committee for purposes of this chap-
31 ter.

32 (~~3c~~) A county, district or regional committee of a recognized politi-
33 cal party shall not be considered a political committee for the purposes
34 of this chapter unless such party committee has expenditures exceeding
35 five thousand dollars (\$5,000) in a calendar year.

36 (~~17~~) "Political treasurer" means an individual appointed by a candi-
37 date or political committee as provided in section 67-6603, Idaho Code.

38 (~~18~~) "Public office" means any state office or position, state sena-
39 tor, state representative, and judge of the district court that is filled by
40 election.

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

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

47 67-6611. INDEPENDENT EXPENDITURES. (1) Each person who makes inde-
48 pendent expenditures in an aggregate amount exceeding one hundred dollars

1 (\$100) in support of or in opposition to any one (1) candidate, political
2 committee or measure, shall file a statement of the expenditure with the
3 secretary of state.

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

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

9 (a) the name and address of any person to whom an expenditure in excess
10 of fifty dollars (\$50.00) has been made by any such person in support of
11 or in opposition to any such candidate or issue during the reporting pe-
12 riod, together with the amount, date and purpose of each such expendi-
13 ture; and

14 (b) the total sum of all expenditures made in support of or in opposition
15 to any such candidate or measure; and

16 (c) the identification of each person who made an aggregate contribu-
17 tion in support of or in opposition to any candidate or measure of fifty
18 dollars (\$50) or more to the person making the independent expenditure
19 during the calendar year in which the expenditure was made to date, to-
20 gether with the date and amount of each contribution.

21 (4) In addition to the requirements ~~set forth in subsections (1) and (2)~~
22 of this section, each person who makes independent expenditures in an aggre-
23 gate amount of one thousand dollars (\$1,000) or more ~~after the sixteenth day~~
24 ~~before, but more than forty-eight (48) hours before, any primary or general~~
25 ~~election,~~ shall file a written statement of the expenditure with the secre-
26 tary of state not more than forty-eight (48) hours from the time of such ex-
27 penditure. The statement shall include the information required in subsec-
28 tion (3) of this section.

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

31 67-6628. ELECTIONEERING COMMUNICATIONS -- STATEMENTS. (1) Any per-
32 son who ~~conducts or transmits any~~ incurs costs in an aggregate amount exceed-
33 ing one hundred dollars (\$100) when making an electioneering communication
34 shall be required to file a statement on a form provided by with the secre-
35 tary of state. Contents of the statement shall include the amount spent on
36 such communications, the name and address of the person, and the names and
37 addresses of any persons who contribute an aggregate amount of fifty dollars
38 (\$50.00) or more in support of or in opposition to any candidate or ballot
39 measure to any person described in reporting under this section during the
40 calendar year in which the communication is made to date, together with the
41 date and amount of each contribution. The statement shall be filed by the
42 tenth day of the month following the month during which the expenditure was
43 made.

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

47 (3) ~~In addition to the requirements of subsection (2) of this section,~~
48 ~~any person that incurs costs in an aggregate amount of one thousand dollars~~

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1 (\$1,000) or more when making an electioneering communication shall file a
2 statement as provided in subsection (1) of this section within forty-eight
3 (48) hours of incurring the costs for such communication.

4 (3) Every electioneering communication shall contain an authority line
5 that states the name of the person responsible for the communication.

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