

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 744

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; AMENDING SECTION 67-6602, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION; AMENDING SECTION 67-6621, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY.

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

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

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

(1) "Candidate" means an individual who seeks nomination, election, or reelection to public office and who has taken any of the following actions:

(a) Announced the individual's candidacy publicly;

(b) Filed for public office;

(c) Received a contribution for the purpose of promoting the individual's candidacy for office; or

(d) Made an expenditure, contracted for services, or reserved space with the intent of promoting the individual's candidacy for office.

For purposes of this chapter, an incumbent shall be presumed to be a candidate in the subsequent election for his or her office until the incumbent has failed to file a declaration of candidacy by the statutory deadline.

(2) (a) "Candidate political committee" means a group of two (2) or more individuals, a corporation, an association, a firm, a partnership, a committee, a club, or any other organization that:

(i) Includes two (2) or more individuals both of whom are either a candidate or a person holding public office;

(ii) Does not have as its principal purpose the conduct of business activities for profit;

(iii) Receives contributions and makes expenditures in an amount exceeding one thousand dollars (\$1,000) in any calendar year; and

(iv) Makes one (1) or more contributions in support of at least one (1) member of such organization who is a candidate for public office or a person holding public office.

(b) For the purposes of this subsection:

(i) "Support" means the transfer of money or anything of value, including the generation or distribution of any electioneering communications that refer to at least one (1) member of an organization pursuant to paragraph (a) of this subsection who is a candidate for public office or a person holding public office; and

(ii) "Electioneering communication" has the same meaning provided for in this chapter and expressly includes electronic

1 communications, website communications, electronic mailings,
2 and social media posts and messages that refer to at least one (1)
3 member of an organization pursuant to paragraph (a) of this sub-
4 section who is a candidate for public office or a person holding
5 public office.

6 ~~(2)~~ (3) "Compensation" includes any advance, conveyance, forgiveness
7 of indebtedness, deposit, distribution, loan, payment, gift, pledge or
8 transfer of money or anything of value, and any contract, agreement, promise
9 or other obligation, whether or not legally enforceable, to do any of the
10 foregoing, for services rendered or to be rendered, but does not include
11 reimbursement of expenses if such reimbursement does not exceed the amount
12 actually expended for such expenses and is substantiated by an itemization
13 of such expenses.

14 ~~(3)~~ (4) "Contractor" means a person who receives compensation from an-
15 other person for either full-time or part-time work based on a contract or
16 compensation agreement, but who is not an employee of that person.

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

39 ~~(5)~~ (6) "Election" means any state or local general, special, recall,
40 or primary election.

41 ~~(6)~~ (7) "Election campaign" means any campaign in support of or in oppo-
42 sition to a candidate for election to public office and any campaign in sup-
43 port of, or in opposition to, a measure.

44 ~~(7)~~ (8) (a) "Electioneering communication" means any communication
45 broadcast by television or radio, printed in a newspaper or on a bill-
46 board, directly mailed or delivered by hand to personal residences, or
47 telephone calls made to personal residences, or otherwise distributed
48 that:

49 (i) Unambiguously refers to any candidate; and

1 (ii) Is broadcasted, printed, mailed, delivered, made or dis-
 2 tributed within thirty (30) days before a primary election or
 3 sixty (60) days before a general election; and

4 (iii) Is broadcasted to, printed in a newspaper, distributed to,
 5 mailed to or delivered by hand to, telephone calls made to, or
 6 otherwise distributed to an audience that includes members of the
 7 electorate for such public office.

8 (b) "Electioneering communication" does not include:

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

13 (ii) Any editorial endorsements or opinions aired by a broadcast
 14 facility not owned or controlled by a candidate, political commit-
 15 tee, or political party;

16 (iii) Any communication by persons made in the regular course and
 17 scope of their business or any communication made by a membership
 18 organization solely to members of such organization and their fam-
 19 ilies;

20 (iv) Any communication that refers to any candidate only as part
 21 of the popular name of a bill or statute;

22 (v) A communication that constitutes an expenditure or an inde-
 23 pendent expenditure under this chapter.

24 ~~(8)~~ (9) "Employee" means an individual who performs a service for wages
 25 or other compensation from which the individual's employer withholds fed-
 26 eral employment taxes under a contract for hire, written or oral.

27 ~~(9)~~ (10) "Executive official" means:

28 (a) The governor, lieutenant governor, secretary of state, state con-
 29 troller, state treasurer, attorney general, superintendent of public
 30 instruction and any deputy or staff member of any of those individuals
 31 who, within the course and scope of his or her employment, is directly
 32 involved in major policy-influencing decisions for the office;

33 (b) A state department or agency director, deputy director, division
 34 administrator or bureau chief as established and enumerated in sections
 35 67-2402 and 67-2406, Idaho Code;

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

39 (d) The membership and the executive or chief administrative officer
 40 of any board or commission that governs any of the state departments
 41 enumerated in section 67-2402, Idaho Code, not including public school
 42 districts;

43 (e) The membership and the executive or chief administrative officer
 44 of the Idaho public utilities commission, the Idaho industrial commis-
 45 sion, and the Idaho state tax commission; and

46 (f) The members of the governing board of the state insurance fund and
 47 the members of the governing board and the executive or chief adminis-
 48 trative officer of the Idaho housing and finance association, the Idaho
 49 energy resources authority, and the Idaho state building authority.

1 ~~(10)~~ (11) "Expenditure" includes any payment, contribu-
2 tion, distribution, loan, advance, deposit, or gift of money or anything
3 of value, and includes a contract, promise, or agreement, whether or not
4 legally enforceable, to make an expenditure. The term "expenditure" also
5 includes a promise to pay, a payment or a transfer of anything of value in
6 exchange for goods, services, property, facilities or anything of value
7 for the purpose of assisting, benefiting or honoring any public official or
8 candidate, or assisting in furthering or opposing any election campaign.

9 ~~(11)~~ (12) "Independent expenditure" means any expenditure by a person
10 for a communication expressly advocating the election, passage or defeat of
11 a clearly identified candidate or measure that is not made with the coopera-
12 tion or with the prior consent of, or in consultation with, or at the consent
13 of, or in consultation with, or at the request of a suggestion of, a candidate
14 or any agent or authorized committee of the candidate or political committee
15 supporting or opposing a measure. As used in this subsection, "expressly ad-
16 vocating" means any communication containing a message advocating election,
17 passage or defeat including, but not limited to, the name of the candidate
18 or measure, or expression such as "vote for," "elect," "support," "cast your
19 ballot for," "vote against," "defeat" or "reject."

20 ~~(12)~~ (13) "Lobby" and "lobbying" each means attempting through contacts
21 with, or causing others to make contact with, members of the legislature or
22 legislative committees or an executive official to influence the approval,
23 modification or rejection of any legislation by the legislature of the state
24 of Idaho or any committee thereof or by the governor or to develop or main-
25 tain relationships with, promote goodwill with, or entertain members of the
26 legislature or executive officials. "Lobby" and "lobbying" shall also mean
27 communicating with an executive official for the purpose of influencing the
28 consideration, amendment, adoption or rejection of any rule or rulemaking as
29 defined in section 67-5201, Idaho Code, or any ratemaking decision, procure-
30 ment, contract, bid or bid process, financial services agreement, or bond
31 issue. Neither "lobby" nor "lobbying" includes an association's or other
32 organization's act of communicating with the members of that association
33 or organization; and provided that neither "lobby" nor "lobbying" includes
34 communicating with an executive official for the purpose of carrying out
35 ongoing negotiations following the award of a bid or a contract, communica-
36 tions involving ongoing legal work and negotiations conducted by and with
37 attorneys for executive agencies, interactions between parties in litiga-
38 tion or other contested matters, or communications among and between members
39 of the legislature and executive officials and their employees, or by state
40 employees while acting in their official capacity or within the course and
41 scope of their employment.

42 ~~(13)~~ (14) "Lobbyist" includes any person who lobbies.

43 ~~(14)~~ (15) "Lobbyist's client" means the person on whose behalf the lob-
44 byist is acting, directly or indirectly, as a contractor, and by whom the
45 lobbyist or lobbyist's employer is compensated for acting as a lobbyist.

46 ~~(15)~~ (16) "Lobbyist's employer" means the person or persons for whom a
47 lobbyist is an employee, and by whom the lobbyist is compensated for acting
48 as a lobbyist.

1 ~~(16)~~ (17) "Local government office" means any publicly elected office
2 for any political subdivision of the state or special district that is not a
3 legislative, judicial, statewide, or federal office.

4 ~~(17)~~ (18) "Measure" means any proposal submitted to the people for
5 their approval or rejection at an election, including any initiative,
6 referendum, recall election, or revision of or amendment to the state con-
7 stitution. An initiative or referendum proposal shall be deemed a measure
8 when the attorney general, county prosecutor, or city attorney, as appro-
9 priate, reviews it and gives it a ballot title. A recall shall be deemed a
10 measure upon approval of the recall petition as to form pursuant to section
11 34-1704, Idaho Code.

12 ~~(18)~~ (19) "Nonbusiness entity" means any group of two (2) or more indi-
13 viduals, a corporation, association, firm, partnership, committee, club or
14 other organization that:

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

17 (b) 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 ~~(19)~~ (20) "Person" means an individual, corporation, association,
21 firm, partnership, committee, political party, club or other organization
22 or group of persons.

23 ~~(20)~~ (21) "Political committee" means:

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

26 (b) Any person who receives contributions and makes expenditures in
27 an amount exceeding one thousand dollars (\$1,000) 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; ~~or~~

32 (c) A candidate political committee.

33 ~~(e)~~ (d) A county, district or regional committee of a recognized polit-
34 ical party shall not be considered a political committee for the pur-
35 poses of this chapter unless such party committee has expenditures ex-
36 ceeding five thousand dollars (\$5,000) in a calendar year.

37 ~~(21)~~ (22) "Political treasurer" means an individual appointed by a can-
38 didate or political committee as provided in section 67-6603, Idaho Code.

39 ~~(22)~~ (23) "Public office" means any local, legislative, judicial, or
40 state office or position that is filled by election but does not include the
41 office of precinct committeeman.

42 SECTION 2. That Section 67-6621, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 67-6621. DUTIES OF LOBBYISTS. A person required to register as a lob-
45 byist under this chapter shall also have the following obligations, the vi-
46 olation of which shall constitute cause for revocation of his registration,
47 and may subject such person, and such person's employer or client, if such
48 employer or client aids, abets, ratifies or confirms any such act, to other
49 civil liabilities, as provided by this chapter:

1 (1) Such persons shall obtain and preserve all accounts, bills,
2 receipts, books, papers, and documents necessary to substantiate the finan-
3 cial reports required to be made under this chapter for a period of at least
4 three (3) years from the date of the filing of the statement containing such
5 items, which accounts, bills, receipts, books, papers and documents shall
6 be made available for inspection by the secretary of state at any reasonable
7 time during such three (3) year period; provided, however, that if a lobbyist
8 is required under the terms of his employment contract to turn any records
9 over to his employer or client, responsibility for the preservation of such
10 records under this subsection shall rest with such employer or client.

11 (2) In addition, a person required to register as a lobbyist shall not:

12 (a) Engage in any activity as a lobbyist before registering as such;

13 (b) Knowingly deceive or attempt to deceive any legislator to any fact
14 pertaining to any pending or proposed legislation;

15 (c) Cause or influence the introduction of any bill or amendment
16 thereto for the purpose of thereafter being employed to secure its de-
17 feat;

18 (d) Knowingly represent an interest adverse to any of his employers or
19 clients without first obtaining such employers' or clients' consent
20 thereto after full disclosure to such employers or clients of such ad-
21 verse interest;

22 (e) Exercise any economic reprisal, extortion, or unlawful retalia-
23 tion upon any legislator by reason of such legislator's position with
24 respect to, or his vote upon, any pending or proposed legislation;

25 (f) Accept any employment as a lobbyist for a compensation dependent
26 in any manner upon the passage or defeat of any proposed or pending leg-
27 islation or upon any other contingency connected with the action of the
28 legislature or of either branch thereof or of any committee thereof.
29 This contingent fee prohibition shall also apply to lobbying activities
30 that pertain to communications with executive officials as described in
31 section ~~67-6602(9)~~ 67-6602(10), Idaho Code.

32 SECTION 3. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after
34 passage and approval.