

IN THE SENATE

SENATE BILL NO. 1251

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; AMENDING SEC-
2 TION 67-6602, IDAHO CODE, TO REVISE A DEFINITION; AND DECLARING AN EMER-
3 GENCY.
4

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

12 (a) Announced the individual's candidacy publicly;

13 (b) Filed for public office;

14 (c) Received a contribution for the purpose of promoting the individ-
15 ual's candidacy for office; or

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

18 For purposes of this chapter, an incumbent shall be presumed to be a can-
19 didate in the subsequent election for his or her office until the in-
20 cumbent has failed to file a declaration of candidacy by the statutory
21 deadline.

22 (2) "Compensation" includes any advance, conveyance, forgiveness of
23 indebtedness, deposit, distribution, loan, payment, gift, pledge or trans-
24 fer of money or anything of value, and any contract, agreement, promise or
25 other obligation, whether or not legally enforceable, to do any of the fore-
26 going, for services rendered or to be rendered, but does not include reim-
27 bursement of expenses if such reimbursement does not exceed the amount ac-
28 tually expended for such expenses and is substantiated by an itemization of
29 such expenses.

30 (3) "Contractor" means a person who receives compensation from another
31 person for either full-time or part-time work based on a contract or compen-
32 sation agreement, but who is not an employee of that person.

33 (4) "Contribution" includes any advance, conveyance, forgiveness of
34 indebtedness, deposit, distribution, loan, payment, gift, pledge, sub-
35 scription or transfer of money or anything of value, and any contract, agree-
36 ment, promise or other obligation, whether or not legally enforceable, to
37 make a contribution, in support of or in opposition to any candidate, polit-
38 ical committee or measure. Such term also includes personal funds or other
39 property of a candidate or members of his household expended or transferred
40 to cover expenditures incurred in support of such candidate but does not
41 include personal funds used to pay the candidate filing fee. Such term also
42 includes the rendering of personal and professional services for less than

1 full consideration, but does not include ordinary home hospitality or the
2 rendering of "part-time" personal services of the sort commonly performed
3 by volunteer campaign workers or advisors or incidental expenses not in ex-
4 cess of twenty-five dollars (\$25.00) personally paid for by any volunteer
5 campaign worker. "Part-time" services, for the purposes of this definition,
6 means services in addition to regular full-time employment, or, in the case
7 of an unemployed person or persons engaged in part-time employment, services
8 rendered without compensation or reimbursement of expenses from any source
9 other than the candidate or political committee for whom such services are
10 rendered. For the purposes of this act, contributions, other than money or
11 its equivalent shall be deemed to have a money value equivalent to the fair
12 market value of the contribution.

13 (5) "Election" means any state or local general, special, recall, or
14 primary election.

15 (6) "Election campaign" means any campaign in support of or in opposi-
16 tion to a candidate for election to public office and any campaign in support
17 of, or in opposition to, a measure.

18 (7) (a) "Electioneering communication" means any communication broad-
19 cast by television or radio, printed in a newspaper or on a billboard,
20 directly mailed or delivered by hand to personal residences, or tele-
21 phone calls made to personal residences, or otherwise distributed that:

22 (i) Unambiguously refers to any candidate; and

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

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

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

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

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

38 (iii) Any communication by persons made in the regular course and
39 scope of their business or any communication made by a membership
40 organization solely to members of such organization and their fam-
41 ilies;

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

44 (v) A communication that constitutes an expenditure or an inde-
45 dependent expenditure under this chapter.

46 (8) "Employee" means an individual who performs a service for wages or
47 other compensation from which the individual's employer withholds federal
48 employment taxes under a contract for hire, written or oral.

49 (9) "Executive official" means:

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

6 (b) A state department or agency director, deputy director, division
7 administrator or bureau chief as established and enumerated in sections
8 67-2402 and 67-2406, Idaho Code;

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

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

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

19 (f) The members of the governing board of the state insurance fund and
20 the members of the governing board and the executive or chief adminis-
21 trative officer of the Idaho housing and finance association, the Idaho
22 energy resources authority, and the Idaho state building authority.

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

31 (11) "Independent expenditure" means any expenditure by a person for
32 a communication expressly advocating the election, passage or defeat of a
33 clearly identified candidate or measure that is not made with the coopera-
34 tion or with the prior consent of, or in consultation with, or at the consent
35 of, or in consultation with, or at the request of a suggestion of, a candidate
36 or any agent or authorized committee of the candidate or political committee
37 supporting or opposing a measure. As used in this subsection, "expressly ad-
38 vocating" means any communication containing a message advocating election,
39 passage or defeat including, but not limited to, the name of the candidate
40 or measure, or expression such as "vote for," "elect," "support," "cast your
41 ballot for," "vote against," "defeat" or "reject."

42 (12) "Lobby" and "lobbying" each means attempting through contacts
43 with, or causing others to make contact with, members of the legislature or
44 legislative committees or an executive official to influence the approval,
45 modification or rejection of any legislation by the legislature of the state
46 of Idaho or any committee thereof or by the governor or to develop or main-
47 tain relationships with, promote goodwill with, or entertain members of the
48 legislature or executive officials. "Lobby" and "lobbying" shall also mean
49 communicating with an executive official for the purpose of influencing the
50 consideration, amendment, adoption or rejection of any rule or rulemaking as

1 defined in section 67-5201, Idaho Code, or any ratemaking decision, procure-
 2 ment, contract, bid or bid process, financial services agreement, or bond
 3 issue. Neither "lobby" nor "lobbying" includes an association's or other
 4 organization's act of communicating with the members of that association
 5 or organization; and provided that neither "lobby" nor "lobbying" includes
 6 communicating with an executive official for the purpose of carrying out
 7 ongoing negotiations following the award of a bid or a contract, communica-
 8 tions involving ongoing legal work and negotiations conducted by and with
 9 attorneys for executive agencies, interactions between parties in litiga-
 10 tion or other contested matters, or communications among and between members
 11 of the legislature and executive officials and their employees, or by state
 12 employees while acting in their official capacity or within the course and
 13 scope of their employment.

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

15 (14) "Lobbyist's client" means the person on whose behalf the lobbyist
 16 is acting, directly or indirectly, as a contractor, and by whom the lobbyist
 17 or lobbyist's employer is compensated for acting as a lobbyist.

18 (15) "Lobbyist's employer" means the person or persons for whom a lob-
 19 byist is an employee, and by whom the lobbyist is compensated for acting as a
 20 lobbyist.

21 (16) "Local government office" means any publicly elected office for
 22 any political subdivision of the state or special district that is not a leg-
 23 islative, judicial, statewide, or federal office.

24 (17) "Measure" means any proposal submitted to the people for their ap-
 25 proval or rejection at an election, including any initiative, referendum,
 26 recall election, or revision of or amendment to the state constitution. An
 27 initiative or referendum proposal shall be deemed a measure when the attor-
 28 ney general, county prosecutor, or city attorney, as appropriate, reviews it
 29 and gives it a ballot title. A recall shall be deemed a measure upon approval
 30 of the recall petition as to form pursuant to section 34-1704, Idaho Code.

31 (18) "Nonbusiness entity" means any group of two (2) or more individ-
 32 uals, a corporation, association, firm, partnership, committee, club or
 33 other organization that:

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

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

39 (19) "Person" means an individual, corporation, association, firm,
 40 partnership, committee, political party, club or other organization or
 41 group of persons.

42 (20) "Political committee" means:

43 (a) Any person specifically designated to support or oppose any candi-
 44 date or measure; or

45 (b) Any person who receives contributions and makes expenditures in
 46 an amount exceeding one thousand dollars (\$1,000) in any calendar year
 47 for the purpose of supporting or opposing one (1) or more candidates or
 48 measures. ~~Any entity registered with the federal election commission~~
 49 ~~shall not be considered a political committee for purposes of this chap-~~
 50 ~~ter.~~

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

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

7 (22) "Public office" means any local, legislative, judicial, or state
8 office or position that is filled by election but does not include the office
9 of precinct committeeman.

10 SECTION 2. An emergency existing therefor, which emergency is hereby
11 declared to exist, this act shall be in full force and effect on and after its
12 passage and approval.