

IN THE SENATE

SENATE BILL NO. 1066

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CAMPAIGN FINANCE; AMENDING SECTION 67-6602, IDAHO CODE, TO RE-
2 VISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
3 67-6603, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE APPOINTMENT OF
4 A POLITICAL TREASURER; AMENDING SECTION 67-6607, IDAHO CODE, TO REVISE
5 PROVISIONS REGARDING REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY CAN-
6 DIDATES AND POLITICAL COMMITTEES; AND AMENDING SECTION 67-6608, IDAHO
7 CODE, TO REVISE PROVISIONS REGARDING SPECIAL PROVISIONS FOR CERTAIN
8 ELECTIONS AND MEASURES.
9

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

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

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

15 (1) (a) "Candidate" means an individual who seeks nomination, election,
16 or reelection to public office and who has taken any of the following ac-
17 tions:

18 (a~~i~~) Announced the individual's candidacy publicly;

19 (~~b~~i~~i~~) Filed for public office;

20 (~~e~~i~~i~~i) Received a contribution for the purpose of promoting the
21 individual's candidacy for office; or

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

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

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

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

40 (4) "Contribution" includes any advance, conveyance, forgiveness of
41 indebtedness, deposit, distribution, loan, payment, gift, pledge, sub-
42 scription or transfer of money or anything of value, and any contract,

1 agreement, promise or other obligation, whether or not legally enforceable,
 2 to make a contribution, in support of or in opposition to any candidate,
 3 political committee or measure. Such term also includes personal funds
 4 or other property of a candidate or members of his household expended or
 5 transferred to cover expenditures incurred in support of such candidate but
 6 does not include personal funds used to pay the candidate filing fee. Such
 7 term also includes the rendering of personal and professional services for
 8 less than full consideration, but does not include ordinary home hospital-
 9 ity or the rendering of "part-time" personal services of the sort commonly
 10 performed by volunteer campaign workers or advisors or incidental expenses
 11 not in excess of twenty-five dollars (\$25.00) personally paid for by any
 12 volunteer campaign worker. "Part-time" services, for the purposes of this
 13 definition, means services in addition to regular full-time employment, or,
 14 in the case of an unemployed person or persons engaged in part-time employ-
 15 ment, services rendered without compensation or reimbursement of expenses
 16 from any source other than the candidate or political committee for whom such
 17 services are rendered. For the purposes of this act, contributions, other
 18 than money or its equivalent shall be deemed to have a money value equivalent
 19 to the fair market value of the contribution. Items donated for the purpose
 20 of raising funds at an auction are a contribution from the donor in the amount
 21 the item received at auction, unless the item was auctioned for greater than
 22 fair market value, in which case the item is a contribution from the donor in
 23 the amount of the item's fair market value, and a contribution from the win-
 24 ning bidder in the amount by which the winning bid exceeds the market value
 25 of the item.

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

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

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

- 35 (i) Unambiguously refers to any candidate; and
- 36 (ii) Is broadcasted, printed, mailed, delivered, made or dis-
 37 tributed within thirty (30) days before a primary election or
 38 sixty (60) days before a general election; and
- 39 (iii) Is broadcasted to, printed in a newspaper, distributed to,
 40 mailed to or delivered by hand to, telephone calls made to, or
 41 otherwise distributed to an audience that includes members of the
 42 electorate for such public office.

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

- 44 (i) Any news articles, editorial endorsements, opinion or com-
 45 mentary, writings, or letter to the editor printed in a newspaper,
 46 magazine, or other periodical not owned or controlled by a candi-
 47 date, political committee, or political party;
- 48 (ii) Any editorial endorsements or opinions aired by a broadcast
 49 facility not owned or controlled by a candidate, political commit-
 50 tee, or political party;

1 (iii) Any communication by persons made in the regular course and
2 scope of their business or any communication made by a membership
3 organization solely to members of such organization and their fam-
4 ilies;

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

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

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

12 (9) "Executive official" means:

13 (a) 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 any of those individuals
16 who, within the course and scope of his or her employment, is directly
17 involved in major policy-influencing decisions for the office;

18 (b) 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 (c) 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 (d) 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 (e) 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 (f) 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 (10) "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 (11) "Independent expenditure" means any expenditure by a person for
44 a communication expressly advocating the election, passage or defeat of a
45 clearly identified candidate or measure that is not made with the coopera-
46 tion or with the prior consent of, or in consultation with, or at the consent
47 of, or in consultation with, or at the request of a suggestion of, a candidate
48 or any agent or authorized committee of the candidate or political committee
49 supporting or opposing a measure. As used in this subsection, "expressly ad-
50 vocating" means any communication containing a message advocating election,

1 passage or defeat including, but not limited to, the name of the candidate
2 or measure, or expression such as "vote for," "elect," "support," "cast your
3 ballot for," "vote against," "defeat" or "reject."

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

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

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

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

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

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

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

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

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

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

4 (20) "Political committee" means:

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

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

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

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

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

22 SECTION 2. That Section 67-6603, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 67-6603. APPOINTMENT OF POLITICAL TREASURER. (~~a~~1) Each candidate and
25 political committee shall appoint a political treasurer and certify the full
26 name and complete address of the political treasurer to the secretary of
27 state. A political treasurer so appointed shall be a registered elector of
28 this state. An individual may be appointed and serve as political treasurer
29 for a candidate and a political committee or two (2) or more candidates or
30 political committees. A candidate may appoint himself his own political
31 treasurer. A candidate who has filed for local government office and does
32 not have a current campaign account for such office is deemed to have ap-
33 pointed himself as political treasurer.

34 (~~b~~2) A candidate or political committee may remove his or its political
35 treasurer. In case of the death, resignation or removal of his or its polit-
36 ical treasurer before compliance with all obligations of a political trea-
37 surer under this act, such candidate or political committee shall appoint
38 a successor and certify the name and address of the successor in the manner
39 provided in the case of an original appointment.

40 (~~e~~3) No contribution shall be received or expenditure made by or on be-
41 half of a candidate or political committee:

42 (~~1~~a) Until the candidate or political committee appoints a political
43 treasurer and certifies the name and address of the political treasurer
44 to the secretary of state or, in the event of a vacancy in the office of
45 political treasurer, has certified the name and address of the succes-
46 sor as provided therein; and

47 (~~2~~b) Unless the contribution is received or expenditure made by or
48 through the political treasurer for the candidate or political commit-
49 tee.

1 SECTION 3. That Section 67-6607, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY CANDIDATES AND
4 POLITICAL COMMITTEES. (1) Each candidate or the political treasurer for each
5 candidate, and each political committee or the political treasurer of each
6 political committee, shall file with the secretary of state a statement of
7 all contributions received and all expenditures and encumbrances made by or
8 on behalf of the candidate or political committee, according to the schedule
9 provided in this section. The statement shall itemize each contribution re-
10 ceived and each expenditure or encumbrance made during the reporting period
11 and shall include the following:

12 (a) Under contributions, the statement shall include a list of all the
13 contributions received, including any funds or property of the candi-
14 date used to cover expenditures. The statement shall list the full name
15 and complete address of each person who contributed an aggregate amount
16 of more than fifty dollars (\$50.00) and the amount contributed by that
17 person. The statement may list as a single item the total amount of con-
18 tributions of fifty dollars (\$50.00) or less; and

19 (b) Under expenditures, the statement shall include the name and ad-
20 dress of each person to whom an expenditure or encumbrance was made in
21 the amount of twenty-five dollars (\$25.00) or more, and the amount,
22 date, and purpose of each such expenditure. Each expenditure or encum-
23 brance in the amount of twenty-five dollars (\$25.00) or more shall be
24 evidenced by an invoice, receipt, or canceled check or an accurate copy
25 thereof. Such evidence shall not be filed with the statement but shall
26 be retained by the committee or candidate for a period of one (1) year
27 after the statement has been filed. The statement may list as a single
28 item the total amount of expenditures and encumbrances of less than
29 twenty-five dollars (\$25.00) without showing the exact amount of or re-
30 quiring evidence of each such expenditure or encumbrance. Anything of
31 value, other than money, paid for or contributed by any person shall be
32 listed both as an expenditure and as a contribution.

33 (2) For the first report under this section, the reporting period shall
34 cover the period beginning with the first contribution, expenditure, or en-
35 cumbrance through the end of the current reporting period. Each candidate
36 and each political committee, or the treasurer for a candidate or political
37 committee or ballot measure, shall file the report described under subsec-
38 tion (1) of this section as follows:

39 (a) In the year of the candidate's election or the election in which a
40 political committee expends money, a monthly report shall be filed for
41 each month of the year. Each report shall be filed by the tenth day of
42 the month following the month being reported; and

43 (b) For the nonelection year, an annual report covering the nonelection
44 year shall be filed by January 10 of the following year.

45 (3) Notwithstanding any other reports required under this section,
46 each candidate and each political committee, or the political treasurer for
47 each candidate and each political committee, shall notify the secretary of
48 state of any contribution of one thousand dollars (\$1,000) or more. This
49 notification shall be made within forty-eight (48) hours after the receipt

1 of such contribution and shall include the name of the candidate, political
 2 committee or measure, the identification of the contributor, and the date of
 3 receipt and amount of the contribution. The notification shall be in addi-
 4 tion to the reporting of these contributions in the regular reports.

5 (4) All reports required pursuant to this section shall be filed online
 6 with the secretary of state, unless a waiver has been provided under section
 7 67-6623, Idaho Code, by no later than midnight on the date the filing is due.

8 (5) Reports required to be filed under the provisions of this section
 9 shall be filed until the account no longer shows any unexpended balance of
 10 contributions or expenditure deficit. An elected official currently in of-
 11 fice shall continue to file reports even if the account has a zero (0) balance
 12 until the official no longer meets the definition of a candidate pursuant to
 13 section 67-6602, Idaho Code.

14 SECTION 4. That Section 67-6608, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 67-6608. SPECIAL PROVISION FOR CERTAIN ELECTIONS AND MEA-
 17 SURES. (1) The political treasurer for a candidate for a judicial office or a
 18 local government office, or for a political committee that is specifically
 19 designated to support or oppose a candidate or local ballot measure, is
 20 exempt from filing reports under section 67-6607, Idaho Code, unless and
 21 until such time as the candidate receives contributions or expends funds in
 22 the amount of five hundred dollars (\$500) or more. ~~Within seven (7) calendar~~
 23 ~~days of the five hundred dollar (\$500) threshold being met, t~~The political
 24 treasurer for the candidate shall, by the tenth day of the month following
 25 the month in which the five-hundred-dollar (\$500) threshold is met, file
 26 a cumulative report covering the period from the first contribution or
 27 expenditure to the current date and shall end of the month in which the
 28 five-hundred-dollar (\$500) threshold is met, unless such filing would occur
 29 after the election in which the candidate may be nominated or elected, in
 30 which case the cumulative report must be filed within seven (7) calendar
 31 days of the five-hundred-dollar (\$500) threshold being met. The political
 32 treasurer for the candidate must file all subsequent reports according to
 33 section 67-6607, Idaho Code, regardless of amounts received or expended.

34 (2) The political treasurer for a political committee that is not
 35 specifically designated to support or oppose any candidate or measure,
 36 but that receives contributions and makes expenditures for the purpose of
 37 supporting or opposing a candidate for a judicial office, a local govern-
 38 ment office, or a local ballot measure, is exempt from filing reports under
 39 section 67-6607, Idaho Code, unless and until such time as the political com-
 40 mittee receives contributions or expends funds in the amount of one thousand
 41 dollars (\$1,000) or more. ~~Within seven (7) calendar days of the one thou-~~
 42 ~~sand dollar (\$1,000) threshold being met, t~~The political treasurer for the
 43 political committee shall, by the tenth day of the month following the month
 44 in which the one-thousand-dollar (\$1,000) threshold is met, file a cumula-
 45 tive report covering the period from the first contribution or expenditure
 46 to the current date and end of the month in which the one-thousand-dollar
 47 (\$1,000) threshold is met, unless such filing would occur after the elec-
 48 tion in which the political committee is expending money, in which case
 49 the cumulative report shall be filed within seven (7) calendar days of the

1 one-thousand-dollar (\$1,000) threshold being met. The political treasurer
2 for the political committee shall file all subsequent reports according to
3 section 67-6607, Idaho Code, regardless of amounts received or expended.