

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 490

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE STATE SUNSHINE LAW; AMENDING SECTION 31-2012, IDAHO CODE,
2 TO PROVIDE APPLICATION OF THE CAMPAIGN REPORTING LAW TO COUNTYWIDE MEA-
3 SURES INCLUDING COUNTYWIDE RECALL ELECTIONS; AMENDING SECTION 50-420,
4 IDAHO CODE, TO PROVIDE APPLICATION OF THE CAMPAIGN REPORTING LAW TO
5 CITYWIDE RECALL ELECTIONS; AMENDING SECTION 67-6602, IDAHO CODE, TO
6 FURTHER DEFINE THE TERM "MEASURE" AND TO MAKE A TECHNICAL CORRECTION;
7 AND AMENDING SECTION 67-6610A, IDAHO CODE, TO PROVIDE THAT RECALL ELEC-
8 TIONS SHALL BE TREATED THE SAME AS GENERAL ELECTIONS FOR CONTRIBUTION
9 LIMITS.
10

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

12 SECTION 1. That Section 31-2012, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 31-2012. APPLICATION OF CAMPAIGN REPORTING LAW TO CERTAIN COUNTY
15 ELECTIONS. The provisions of sections 67-6601 through 67-6616 and 67-6623
16 through 67-6630, Idaho Code, insofar as they relate to the reporting of
17 campaign contributions and expenditures are hereby made applicable to all
18 elections for county elected officers and countywide measures including
19 countywide recalls in counties of the state, except that the clerk of the
20 district court shall stand in place of the secretary of state.

21 SECTION 2. That Section 50-420, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 50-420. APPLICATION OF CAMPAIGN REPORTING LAW TO ELECTIONS IN CER-
24 TAIN CITIES. The provisions of sections 67-6601 through 67-6616 and 67-6623
25 through 67-6630, Idaho Code, are hereby made applicable to all elections
26 for mayor, councilman and citywide measures, including citywide recalls,
27 in cities of five thousand (5,000) or more population, except that the city
28 clerk shall stand in place of the secretary of state, and the city attorney
29 shall stand in place of the attorney general.

30 SECTION 3. That Section 67-6602, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 67-6602. DEFINITIONS. As used in this chapter, the following terms
33 have the following meanings:

34 (a) "Candidate" means an individual who has taken affirmative action to
35 seek nomination or election to public office. An individual shall be deemed
36 to have taken affirmative action to seek such nomination or election to pub-
37 lic office when he first:

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

1 (2) Announces publicly or files for office.

2 (3) For purposes of this chapter, an incumbent shall be presumed to be
3 a candidate in the subsequent election for his or her office. Contri-
4 butions received by an incumbent candidate shall not be in excess of the
5 prescribed contribution limits for the subsequent election by which the
6 incumbent candidate's name would first appear on the ballot. An incum-
7 bent shall no longer be a candidate for his or her office after the dead-
8 line for the filing of a declaration of candidacy to first appear on the
9 ballot for that office has expired.

10 (b) "Compensation" includes any advance, conveyance, forgiveness of
11 indebtedness, deposit, distribution, loan, payment, gift, pledge or trans-
12 fer of money or anything of value, and any contract, agreement, promise or
13 other obligation, whether or not legally enforceable, to do any of the fore-
14 going, for services rendered or to be rendered, but does not include reim-
15 bursement of expenses if such reimbursement does not exceed the amount ac-
16 tually expended for such expenses and is substantiated by an itemization of
17 such expenses.

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

40 (d) "Election" means any general, special or primary election.

41 (e) "Election campaign" means any campaign in support of or in opposi-
42 tion to a candidate for election to public office and any campaign in support
43 of, or in opposition to, a measure.

44 (f) (1) "Electioneering communication" means any communication broad-
45 cast by television or radio, printed in a newspaper or on a billboard,
46 directly mailed or delivered by hand to personal residences, or tele-
47 phone calls made to personal residences, or otherwise distributed that:

48 (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 (2) "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 or political party;

13 (ii) Any editorial endorsements or opinions aired by a broad-
 14 cast facility not owned or controlled by a candidate or political
 15 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 which refers to any candidate only as part
 21 of the popular name of a bill or statute;

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

24 (g) "Executive official" means:

25 (1) The governor, lieutenant governor, secretary of state, state con-
 26 troller, state treasurer, attorney general, superintendent of public
 27 instruction and any deputy or staff member of one (1) of those individ-
 28 uals who, within the course and scope of his or her employment, is di-
 29 rectly involved in major policy influencing decisions for the office;

30 (2) A state department or agency director, deputy director, division
 31 administrator or bureau chief as established and enumerated in sections
 32 67-2402 and 67-2406, Idaho Code;

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

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

40 (5) The membership and the executive or chief administrative officer
 41 of the Idaho public utilities commission, the Idaho industrial commis-
 42 sion, and the Idaho state tax commission; and

43 (6) The members of the governing board of the state insurance fund, and
 44 the members of the governing board and the executive or chief adminis-
 45 trative officer of the Idaho housing and finance association, the Idaho
 46 energy resources authority, and the Idaho state building authority.

47 (h) "Expenditure" includes any payment, contribution, subscription,
 48 distribution, loan, advance, deposit, or gift of money or anything of value,
 49 and includes a contract, promise, or agreement, whether or not legally en-
 50 forceable, to make an expenditure. The term "expenditure" also includes a

1 promise to pay, a payment or a transfer of anything of value in exchange for
2 goods, services, property, facilities or anything of value for the purpose
3 of assisting, benefiting or honoring any public official or candidate, or
4 assisting in furthering or opposing any election campaign.

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

16 (j) "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 (k) "Lobbyist" includes any person who lobbies.

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

42 (m) "Measure" means any proposal, to be voted statewide, submitted to
43 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 (n) "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 (1) Does not have as its principal purpose the conduct of business ac-
5 tivities for profit; and

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

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

12 (p) "Political committee" means:

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

15 (2) 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 (3) 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 (q) "Political treasurer" means an individual appointed by a candidate
26 or political committee as provided in section 67-6603, Idaho Code.

27 (r) "Public office" means any state office or position, state senator,
28 state representative, and judge of the district court that is filled by elec-
29 tion.

30 SECTION 4. That Section 67-6610A, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 67-6610A. LIMITATIONS ON CONTRIBUTIONS. (1) Except as provided in
33 subsection (2) of this section, aggregate contributions for a primary elec-
34 tion or a general election made by a corporation, political committee, other
35 recognized legal entity or an individual, other than the candidate, to a
36 candidate for the state legislature, and political committees organized on
37 the candidate's behalf shall be limited to an amount not to exceed one thou-
38 sand dollars (\$1,000) for the primary election and an amount not to exceed
39 one thousand dollars (\$1,000) for the general election. Aggregate contribu-
40 tions for a primary election or a general election by a corporation, polit-
41 ical committee, other recognized legal entity or an individual, other than
42 the candidate, to a candidate for statewide office and political committees
43 organized on the candidate's behalf shall be limited to an amount not to ex-
44 ceed five thousand dollars (\$5,000) for the primary election and an amount
45 not to exceed five thousand dollars (\$5,000) for the general election.

46 (2) Aggregate contributions for a primary election or for a general
47 election made by a county central committee or by the state central committee
48 of the political parties qualified under section 34-501, Idaho Code, to a
49 candidate for the state legislature, and political committees organized

1 on the candidate's behalf shall be limited to an amount not to exceed two
2 thousand dollars (\$2,000) for the primary election and an amount not to
3 exceed two thousand dollars (\$2,000) for the general election. Aggregate
4 contributions for the primary election or the general election by the state
5 central committee of the political parties qualified under section 34-501,
6 Idaho Code, to a candidate for statewide office and political committees or-
7 ganized on the candidate's behalf shall be limited to an amount not to exceed
8 ten thousand dollars (\$10,000) for the primary election and an amount not to
9 exceed ten thousand dollars (\$10,000) for the general election.

10 (3) For purposes of this section "statewide office" shall mean an of-
11 fice in state government which shall appear on the primary or general elec-
12 tion ballot throughout the state.

13 (4) Recall elections, for purposes of this section, shall be treated
14 the same as general elections for contribution limits.

15 (5) Contributions other than money or its equivalent are deemed to have
16 a monetary value equivalent to the fair market value of the contribution.
17 Services or property or rights furnished at less than their fair market value
18 for the purpose of assisting any candidate or political committee are deemed
19 a contribution. A contribution of this kind shall be reported as an in-kind
20 contribution at its fair market value and counts toward any applicable con-
21 tribution limit of the contributor. Contributions shall not include the
22 personal services of volunteers.

23 (56) The contribution limits for the state legislature shall apply to
24 judicial district offices, city offices and county offices regulated by this
25 chapter.

26 (67) For the purposes of contribution limits, the following apply:

27 (a) A contribution by a political committee with funds that have all
28 been contributed by one (1) person who exercises exclusive control over
29 the distribution of the funds of the political committee is a contribu-
30 tion by the controlling person.

31 (b) All contributions made by a person or political committee whose
32 contribution or expenditure activity is financed, maintained or con-
33 trolled by a trade association, labor union or collective bargaining
34 organization shall be considered a contribution from such trade associ-
35 ation, labor union or collective bargaining organization.

36 (c) Two (2) or more entities are treated as a single entity if the enti-
37 ties:

38 (i) Share the majority of members on their board of directors;

39 (ii) Share two (2) or more officers;

40 (iii) Are owned or controlled by the same majority shareholder or
41 shareholders or persons;

42 (iv) Are in a parent-subsidiary relationship; or

43 (v) Have bylaws so stating.

44 (78) The provisions of this section are hereby declared to be severable
45 and if any provision of this section or the application of such provision to
46 any person or circumstance is declared invalid for any reason, such declara-
47 tion shall not affect the validity of the remaining portions of this section.