

IN THE SENATE

SENATE BILL NO. 1238

BY SCHMIDT, BILYEU, BOCK, LEFAVOUR, MALEPEAI, WERK, STENNETT

AN ACT

RELATING TO FINANCIAL DISCLOSURE STATEMENTS FOR PUBLIC OFFICERS AND CANDIDATES; TO PROVIDE A SHORT TITLE; AMENDING CHAPTER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6631, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6632, IDAHO CODE, TO PROVIDE A DUTY TO FILE FINANCIAL DISCLOSURE STATEMENTS BY PUBLIC OFFICERS AND CANDIDATES, TO PROVIDE CONTENTS, TO PROVIDE AN EXCEPTION, TO PROVIDE APPLICATION AND TO PROVIDE FOR DUTIES OF THE SECRETARY OF STATE; AMENDING CHAPTER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6633, IDAHO CODE, TO PROVIDE CRIMINAL AND CIVIL PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. SHORT TITLE. This act shall be known as the "Idaho Conflict of Interest Act."

SECTION 2. That Chapter 66, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6631, Idaho Code, and to read as follows:

67-6631. DEFINITIONS. As used in sections 67-6631 through 67-6633, Idaho Code, unless the context otherwise requires, the following terms have the following meanings.

(1) "Business" includes any enterprise, organization, trade, occupation or profession, whether or not operated as a legal entity or for profit, including any business, trust, corporation, partnership, joint venture or sole proprietorship.

(2) "Candidate" means an individual who has taken affirmative action to seek nomination or election to public office. An individual shall be deemed to have taken affirmative action to seek such nomination or election to public office when he first:

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

(b) Announces publicly or files for office.

(3) "Compensation" means anything of value or advantage, present or prospective, including the forgiveness of debt.

(4) "Controlled business" means any business in which the public officer or candidate, or spouse of the public officer or candidate, has an ownership or beneficial interest, individually or combined, amounting to more than a fifty percent (50%) interest.

(5) "Dependent business" means any business in which the public officer or candidate, or spouse of the public officer or candidate, has an ownership beneficial interest, individually or combined, amounting to more than a ten percent (10%) interest, and which during the preceding calendar year

1 the business received from a single source more than ten thousand dollars
2 (\$10,000) or more than fifty percent (50%) of its gross income.

3 (6) "Gift" includes any gratuity, special discount, favor, hospital-
4 ity, service, economic opportunity, loan or other benefit received without
5 equivalent consideration, not provided to members of the public at large and
6 exceeding a value of fifty dollars (\$50.00).

7 (7) "Public office" means any state office or position, state senator,
8 state representative, justice of the supreme court, and judge of the court of
9 appeals, that is filled by election.

10 (8) "Public officer" means the governor, lieutenant governor, state
11 senator, state representative, attorney general, superintendent of public
12 instruction, secretary of state, state controller, state treasurer, justice
13 of the supreme court and a judge of the court of appeals. Members of congress
14 are not public officers as defined in this subsection.

15 SECTION 3. That Chapter 66, Title 67, Idaho Code, be, and the same is
16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
17 ignated as Section 67-6632, Idaho Code, and to read as follows:

18 67-6632. DUTY TO FILE FINANCIAL DISCLOSURE STATEMENT -- CONTENTS --
19 EXCEPTIONS. (1) In addition to other statements and reports required by law,
20 every public officer and candidate, as a matter of public record, shall file
21 with the secretary of state, on a form prescribed by the secretary of state,
22 a verified financial disclosure statement as provided by this section. The
23 statement shall disclose:

24 (a) The name and address of the public officer or candidate, the name
25 and address of the spouse of the public officer or candidate, and all
26 names and addresses under which each does business.

27 (b) The name and address of each employer and of each other source of
28 compensation amounting to more than one thousand dollars (\$1,000) re-
29 ceived during the preceding calendar year by the public officer or can-
30 didate, or spouse of the public officer or candidate in their own names,
31 or by any other person for the use or benefit of the public officer or
32 candidate or the spouse of the public officer or candidate, a descrip-
33 tion of the services for which the compensation was received and the na-
34 ture of the employer's business or the source of compensation's busi-
35 ness.

36 (c) For a controlled business, a description of the goods or services
37 provided by the business, and if any single source of compensation to
38 the business during the preceding calendar year amounts to more than ten
39 thousand dollars (\$10,000) and is more than twenty-five percent (25%)
40 of the gross income of the business, the disclosure shall also include
41 a description of the goods or services provided to the source of com-
42 pensation. For a dependent business the statement shall disclose a de-
43 scription of the goods or services provided by the business and a de-
44 scription of the goods or services provided to the source of compensa-
45 tion from which the dependent business derived the amount of gross in-
46 come described in subsection (5) of section 67-6631, Idaho Code. If the
47 source of compensation for a controlled or dependent business is a busi-
48 ness, the statement shall disclose a description of the business activ-
49 ities engaged in by the source of compensation.

1 (d) The names and addresses of all businesses and trusts in which the
2 public officer or candidate, or spouse of the public officer or candi-
3 date, or any other person for the use or benefit of the public officer or
4 candidate, or spouse of the public officer or candidate, had an owner-
5 ship or beneficial interest, including stocks in a publicly traded cor-
6 poration, of over one thousand dollars (\$1,000) at any time during the
7 preceding calendar year, and the names and addresses of all businesses
8 and trusts in which the public officer or candidate, or spouse of the
9 public officer or candidate, held any office or had a fiduciary rela-
10 tionship at any time during the preceding calendar year, together with
11 the amount or value of the interest and a description of the interest,
12 office or relationship.

13 (e) All leases of state or political subdivision land or real property
14 or contracts with the state or a political subdivision of the state, all
15 Idaho real property interests and real property improvements, includ-
16 ing specific location and approximate size, and in which the public of-
17 ficer or candidate, or spouse of the public officer or candidate, or a
18 controlled or dependent business, held legal title or a beneficial in-
19 terest at any time during the preceding calendar year, and the value of
20 any such interest, except that this paragraph does not apply to a real
21 property interest and improvements thereon used as the primary personal
22 residence of the public officer or candidate. If a public officer or
23 candidate, any spouse of a public officer or candidate, or a controlled
24 or dependent business, acquired or divested any such interest during
25 the preceding calendar year, he shall also disclose that the transac-
26 tion was made and the date it occurred. If the controlled or dependent
27 business is in the business of dealing in real property interests or im-
28 provements, disclosure need not include individual parcels or trans-
29 actions as long as the aggregate value and general description of all
30 parcels of such property are reported.

31 (f) The name and address of each creditor, including federal, state
32 and local government tax liability to whom the public officer or candi-
33 date, or spouse of the public officer or candidate in their own names or
34 in the name of any other person, owed a debt of more than one thousand
35 dollars (\$1,000) or to whom a controlled business or a dependent busi-
36 ness owed a debt of more than ten thousand dollars (\$10,000) which was
37 also more than thirty percent (30%) of the total business indebtedness
38 at any time during the preceding calendar year. This paragraph shall
39 not be construed to require the disclosure of debts owed by the public
40 officer or candidate, or spouse of the public officer or candidate, re-
41 sulting from the ordinary conduct of a business other than a controlled
42 or dependent business. Nor shall disclosure be required of credit card
43 transactions, retail installment contracts, debts on residences exempt
44 from disclosure under paragraph (e) of this subsection, debts on motor
45 vehicles not used for commercial purposes, debts secured by cash values
46 on life insurance or debts owed to relatives. It is sufficient disclo-
47 sure of a creditor if the name and address of a person to whom payments
48 are made is disclosed. If the public officer or candidate, spouse of
49 the public officer or candidate, or a controlled or dependent business,
50 incurred or discharged a debt which is reportable under this paragraph

1 during the preceding calendar year, the report shall disclose that the
2 transaction was made and the date it occurred.

3 (g) The value, nature and name of each source of any gift, or accumu-
4 lated gifts from a single source, received by the public officer or can-
5 didate, or spouse of the public officer or candidate in their own names
6 during the preceding calendar year, or by any other person for the use
7 or benefit of the public officer or candidate, or spouse of the public
8 officer or candidate, except gifts received by will or by virtue of in-
9 testate succession, or received by way of distribution from any inter
10 vivos or testamentary trust established by a spouse or by an ancestor,
11 or gifts received from any other member of the household or relatives in
12 the second degree of consanguinity. Political campaign contributions
13 shall not be construed as gifts if otherwise publicly reported as polit-
14 ical campaign contributions as required by law.

15 (h) A list of all business licenses issued to, held by or in which the
16 public officer or candidate, spouse of the public officer or candidate,
17 or any controlled or dependent business, had an interest at any time
18 during the preceding calendar year, including the name in which the li-
19 cense was issued, the type of business and its location.

20 (i) A list of all bonds, together with their value, issued by this state
21 or any political subdivision of this state held at any time during the
22 preceding calendar year by the public officer or candidate, or spouse
23 of the public officer or candidate, which bonds issued by a single en-
24 tity had a value in excess of one thousand dollars (\$1,000). If the pub-
25 lic officer or candidate, or spouse of the public officer or candidate,
26 acquired or divested any bonds during the preceding calendar year which
27 are reportable under this paragraph, the fact that the transaction oc-
28 curred and the date shall also be shown.

29 (2) If an amount or value is required to be reported pursuant to this
30 section, it is sufficient to report whether the amount or value of the equity
31 interest falls within:

32 (a) Category 1, one thousand dollars (\$1,000) to twenty-five thousand
33 dollars (\$25,000).

34 (b) Category 2, more than twenty-five thousand dollars (\$25,000) to one
35 hundred thousand dollars (\$100,000).

36 (c) Category 3, more than one hundred thousand dollars (\$100,000) or
37 more.

38 (3) This section does not require the disclosure of any information
39 that is privileged by law.

40 (4) The statement required to be filed pursuant to subsection (1) of
41 this section shall be filed by all persons who qualified as public officers
42 at any time during the preceding calendar year on or before February 15 of
43 each year and shall cover the preceding calendar year ending December 31, ex-
44 cept that a public officer appointed to fill a vacancy shall, within thirty
45 (30) days following his taking of such office, file a financial disclosure
46 statement covering as his annual period the twelve (12) month period ending
47 with the last full month prior to the date of his taking office. All candi-
48 dates shall file financial disclosure statements within thirty (30) days of
49 first meeting the definition of "candidate" as provided in subsection (2) of
50 section 67-6631, Idaho Code, and the statement shall cover as their annual

1 period the twelve (12) month period ending with the last full month prior to
2 the date of meeting such definition.

3 (5) The secretary of state shall prepare written guidelines, forms and
4 samples for completing the financial disclosure statement required by this
5 section. A copy of the guidelines, forms and samples shall be distributed to
6 each public officer and made available to all candidates.

7 SECTION 4. That Chapter 66, Title 67, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 67-6633, Idaho Code, and to read as follows:

10 67-6633. VIOLATION -- PENALTIES. (1) Any public officer or candidate
11 who knowingly files a materially incomplete financial disclosure statement
12 or who knowingly files a false financial disclosure statement is guilty of a
13 misdemeanor.

14 (2) Any public officer or candidate who fails to file a financial
15 disclosure statement or who otherwise violates the provisions of section
16 67-6632, Idaho Code, is subject to a civil penalty of fifty dollars (\$50.00)
17 for each day of noncompliance. However, the maximum civil penalty shall not
18 exceed five thousand dollars (\$5,000) for any related series of violations.
19 The civil penalty shall be deposited in the general fund.

20 SECTION 5. This act shall be in full force and effect on and after Jan-
21 uary 1, 2013.