

1 5149-S.E AMH ANDE H3159.2

2 **ESSB 5149** - H AMD 679 ADOPTED 6-27-91
3 By Representatives Anderson and McLean

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 42.17.020 and 1990 c 139 s 2 are each amended to read
8 as follows:

9 (1) "Agency" includes all state agencies and all local agencies.
10 "State agency" includes every state office, department, division,
11 bureau, board, commission, or other state agency. "Local agency"
12 includes every county, city, town, municipal corporation, quasi-
13 municipal corporation, or special purpose district, or any office,
14 department, division, bureau, board, commission, or agency thereof, or
15 other local public agency.

16 (2) "Ballot proposition" means any "measure" as defined by RCW
17 29.01.110, or any initiative, recall, or referendum proposition
18 proposed to be submitted to the voters of the state or any municipal
19 corporation, political subdivision, or other voting constituency from
20 and after the time when the proposition has been initially filed with
21 the appropriate election officer of that constituency prior to its
22 circulation for signatures.

23 (3) "Depository" means a bank designated by a candidate or
24 political committee pursuant to RCW 42.17.050.

25 (4) "Treasurer" and "deputy treasurer" mean the individuals
26 appointed by a candidate or political committee, pursuant to RCW
27 42.17.050, to perform the duties specified in that section.

28 (5) "Candidate" means any individual who seeks election to public
29 office. An individual shall be deemed to seek election when he first:

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

3 (b) Announces publicly or files for office.

4 (6) "Commercial advertiser" means any person who sells the service
5 of communicating messages or producing printed material for broadcast
6 or distribution to the general public or segments of the general public
7 whether through the use of newspapers, magazines, television and radio
8 stations, billboard companies, direct mail advertising companies,
9 printing companies, or otherwise.

10 (7) "Commission" means the agency established under RCW 42.17.350.

11 (8) "Compensation" unless the context requires a narrower meaning,
12 includes payment in any form for real or personal property or services
13 of any kind: PROVIDED, That for the purpose of compliance with RCW
14 42.17.241, the term "compensation" shall not include per diem
15 allowances or other payments made by a governmental entity to reimburse
16 a public official for expenses incurred while the official is engaged
17 in the official business of the governmental entity.

18 (9) "Continuing political committee" means a political committee
19 that is an organization of continuing existence not established in
20 anticipation of any particular election campaign.

21 (10) "Contribution" includes a loan, gift, deposit, subscription,
22 forgiveness of indebtedness, donation, advance, pledge, payment,
23 transfer of funds between political committees, or transfer of anything
24 of value, including personal and professional services for less than
25 full consideration, but does not include interest on moneys deposited
26 in a political committee's account, ordinary home hospitality and the
27 rendering of personal services of the sort commonly performed by
28 volunteer campaign workers, or incidental expenses personally incurred
29 by volunteer campaign workers not in excess of fifty dollars personally
30 paid for by the worker. Volunteer services, for the purposes of this

1 chapter, means services or labor for which the individual is not
2 compensated by any person. For the purposes of this chapter,
3 contributions other than money or its equivalents shall be deemed to
4 have a money value equivalent to the fair market value of the
5 contribution. Sums paid for tickets to fund-raising events such as
6 dinners and parties are contributions; however, the amount of any such
7 contribution may be reduced for the purpose of complying with the
8 reporting requirements of this chapter, by the actual cost of
9 consumables furnished in connection with the purchase of the tickets,
10 and only the excess over the actual cost of the consumables shall be
11 deemed a contribution.

12 (11) "Elected official" means any person elected at a general or
13 special election to any public office, and any person appointed to fill
14 a vacancy in any such office.

15 (12) "Election" includes any primary, general, or special election
16 for public office and any election in which a ballot proposition is
17 submitted to the voters: PROVIDED, That an election in which the
18 qualifications for voting include other than those requirements set
19 forth in Article VI, section 1 (Amendment 63) of the Constitution of
20 the state of Washington shall not be considered an election for
21 purposes of this chapter.

22 (13) "Election campaign" means any campaign in support of or in
23 opposition to a candidate for election to public office and any
24 campaign in support of, or in opposition to, a ballot proposition.

25 (14) "Expenditure" includes a payment, contribution, subscription,
26 distribution, loan, advance, deposit, or gift of money or anything of
27 value, and includes a contract, promise, or agreement, whether or not
28 legally enforceable, to make an expenditure. The term "expenditure"
29 also includes a promise to pay, a payment, or a transfer of anything of
30 value in exchange for goods, services, property, facilities, or

1 anything of value for the purpose of assisting, benefiting, or honoring
2 any public official or candidate, or assisting in furthering or
3 opposing any election campaign. For the purposes of this chapter,
4 agreements to make expenditures, contracts, and promises to pay may be
5 reported as estimated obligations until actual payment is made. The
6 term "expenditure" shall not include the partial or complete repayment
7 by a candidate or political committee of the principal of a loan, the
8 receipt of which loan has been properly reported.

9 (15) "Final report" means the report described as a final report in
10 RCW 42.17.080(2).

11 (16) "Gift," for the purposes of RCW 42.17.170 and section 3 of
12 this 1991 act, means a rendering of anything of value in return for
13 which reasonable consideration is not given and received and includes
14 a rendering of money, property, services, discount, loan forgiveness,
15 payment of indebtedness, or reimbursements from or payments by persons
16 (other than the federal government, or the state of Washington or any
17 agency or political subdivision thereof) for travel or anything else of
18 value. The term "reasonable consideration" refers to the approximate
19 range of consideration that exists in transactions not involving
20 donative intent. However, the value of the gift of partaking in a
21 single hosted reception shall be determined by dividing the total
22 amount of the cost of conducting the reception by the total number of
23 persons partaking in the reception. "Gift" for the purposes of RCW
24 42.17.170 and section 3 of this 1991 act does not include:

25 (a) A gift, other than a gift of partaking in a hosted reception,
26 with a value of fifty dollars or less;

27 (b) The gift of partaking in a hosted reception if the value of the
28 gift is one hundred dollars or less;

29 (c) A contribution that is required to be reported under RCW
30 42.17.090 or 42.17.243;

1 (d) Informational material that is transferred for the purpose of
2 informing the recipient about matters pertaining to official business
3 of the governmental entity of which the recipient is an official or
4 officer, and that is not intended to confer on that recipient any
5 commercial, proprietary, financial, economic, or monetary advantage, or
6 the avoidance of any commercial, proprietary, financial, economic, or
7 monetary disadvantage;

8 (e) A gift that is not used and that, within thirty days after
9 receipt, is returned to the donor or delivered to a charitable
10 organization. However, this exclusion from the definition does not
11 apply if the recipient of the gift delivers the gift to a charitable
12 organization and claims the delivery as a charitable contribution for
13 tax purposes;

14 (f) A gift given under circumstances where it is clear beyond any
15 doubt that the gift was not made as part of any design to gain or
16 maintain influence in the governmental entity of which the recipient is
17 an officer or official or with respect to any legislative matter or
18 matters of that governmental entity; or

19 (g) A gift given prior to the effective date of this 1991 act.

20 (17) "Immediate family" includes the spouse, dependent children,
21 and other dependent relatives, if living in the household.

22 ((~~17~~)) (18) "Legislation" means bills, resolutions, motions,
23 amendments, nominations, and other matters pending or proposed in
24 either house of the state legislature, and includes any other matter
25 that may be the subject of action by either house or any committee of
26 the legislature and all bills and resolutions that, having passed both
27 houses, are pending approval by the governor.

28 ((~~18~~)) (19) "Lobby" and "lobbying" each mean attempting to
29 influence the passage or defeat of any legislation by the legislature
30 of the state of Washington, or the adoption or rejection of any rule,

1 standard, rate, or other legislative enactment of any state agency
2 under the state Administrative Procedure Act, chapter 34.05 RCW.
3 Neither "lobby" nor "lobbying" includes an association's or other
4 organization's act of communicating with the members of that
5 association or organization.

6 ~~((19))~~ (20) "Lobbyist" includes any person who lobbies either in
7 his own or another's behalf.

8 ~~((20))~~ (21) "Lobbyist's employer" means the person or persons by
9 whom a lobbyist is employed and all persons by whom he is compensated
10 for acting as a lobbyist.

11 ~~((21))~~ (22) "Person" includes an individual, partnership, joint
12 venture, public or private corporation, association, federal, state, or
13 local governmental entity or agency however constituted, candidate,
14 committee, political committee, political party, executive committee
15 thereof, or any other organization or group of persons, however
16 organized.

17 ~~((22))~~ (23) "Person in interest" means the person who is the
18 subject of a record or any representative designated by that person,
19 except that if that person is under a legal disability, the term
20 "person in interest" means and includes the parent or duly appointed
21 legal representative.

22 ~~((23))~~ (24) "Political advertising" includes any advertising
23 displays, newspaper ads, billboards, signs, brochures, articles,
24 tabloids, flyers, letters, radio or television presentations, or other
25 means of mass communication, used for the purpose of appealing,
26 directly or indirectly, for votes or for financial or other support in
27 any election campaign.

28 ~~((24))~~ (25) "Political committee" means any person (except a
29 candidate or an individual dealing with his own funds or property)
30 having the expectation of receiving contributions or making

1 expenditures in support of, or opposition to, any candidate or any
2 ballot proposition.

3 ~~((25))~~ (26) "Public office" means any federal, state, county,
4 city, town, school district, port district, special district, or other
5 state political subdivision elective office.

6 ~~((26))~~ (27) "Public record" includes any writing containing
7 information relating to the conduct of government or the performance of
8 any governmental or proprietary function prepared, owned, used, or
9 retained by any state or local agency regardless of physical form or
10 characteristics.

11 ~~((27))~~ (28) "Surplus funds" mean, in the case of a political
12 committee or candidate, the balance of contributions that remain in the
13 possession or control of that committee or candidate subsequent to the
14 election for which the contributions were received, and that are in
15 excess of the amount necessary to pay remaining debts incurred by the
16 committee or candidate prior to that election. In the case of a
17 continuing political committee, "surplus funds" mean those
18 contributions remaining in the possession or control of the committee
19 that are in excess of the amount necessary to pay all remaining debts
20 when it makes its final report under RCW 42.17.065.

21 ~~((28))~~ (29) "Writing" means handwriting, typewriting, printing,
22 photostating, photographing, and every other means of recording any
23 form of communication or representation, including letters, words,
24 pictures, sounds, or symbols, or combination thereof, and all papers,
25 maps, magnetic or paper tapes, photographic films and prints, magnetic
26 or punched cards, discs, drums, and other documents.

27 As used in this chapter, the singular shall take the plural and any
28 gender, the other, as the context requires."

1 **"Sec. 2.** RCW 42.17.170 and 1990 c 139 s 3 are each amended to read
2 as follows:

3 (1) Any lobbyist registered under RCW 42.17.150 and any person who
4 lobbies shall file with the commission periodic reports of his
5 activities signed by the lobbyist. The reports shall be made in the
6 form and manner prescribed by the commission. They shall be due
7 monthly and shall be filed within fifteen days after the last day of
8 the calendar month covered by the report.

9 (2) Each such monthly periodic report shall contain:

10 (a) The totals of all expenditures for lobbying activities made or
11 incurred by such lobbyist or on behalf of such lobbyist by the
12 lobbyist's employer during the period covered by the report. Such
13 totals for lobbying activities shall be segregated according to
14 financial category, including compensation; food and refreshments;
15 living accommodations; advertising; travel; contributions; and other
16 expenses or services. Each individual expenditure of more than twenty-
17 five dollars for entertainment shall be identified by date, place,
18 amount, and the names of all persons in the group partaking in or of
19 such entertainment including any portion thereof attributable to the
20 lobbyist's participation therein (~~but~~), without allocating any
21 portion of such expenditure to individual participants. However, if
22 the expenditure for a single hosted reception is more than one hundred
23 dollars per person partaking therein, the report shall specify the per
24 person amount, which shall be determined by dividing the total amount
25 of the expenditure by the total number of persons partaking in the
26 reception.

27 Notwithstanding the foregoing, lobbyists are not required to report
28 the following:

29 (i) Unreimbursed personal living and travel expenses not incurred
30 directly for lobbying;

1 (ii) Any expenses incurred for his or her own living
2 accommodations;

3 (iii) Any expenses incurred for his or her own travel to and from
4 hearings of the legislature;

5 (iv) Any expenses incurred for telephone, and any office expenses,
6 including rent and salaries and wages paid for staff and secretarial
7 assistance.

8 (b) In the case of a lobbyist employed by more than one employer,
9 the proportionate amount of such expenditures in each category incurred
10 on behalf of each of his employers.

11 (c) An itemized listing of each such expenditure in the nature of
12 a contribution of money or of tangible or intangible personal property
13 to any candidate, elected official, or officer or employee of any
14 agency, or any political committee supporting or opposing any ballot
15 proposition, or for or on behalf of any candidate, elected official, or
16 officer or employee of any agency, or any political committee
17 supporting or opposing any ballot proposition. All contributions made
18 to, or for the benefit of, any candidate, elected official, or officer
19 or employee of any agency, or any political committee supporting or
20 opposing any ballot proposition shall be identified by date, amount,
21 and the name of the candidate, elected official, or officer or employee
22 of any agency, or any political committee supporting or opposing any
23 ballot proposition receiving, or to be benefited by each such
24 contribution.

25 (d) The subject matter of proposed legislation or other legislative
26 activity or rule-making under chapter 34.05 RCW, the state
27 Administrative Procedure Act, and the state agency considering the
28 same, which the lobbyist has been engaged in supporting or opposing
29 during the reporting period.

1 (e) Such other information relevant to lobbying activities as the
2 commission shall by rule prescribe. Information supporting such
3 activities as are required to be reported is subject to audit by the
4 commission.

5 (f) A listing of each gift, as defined in RCW 42.17.020, made to a
6 state elected official or executive state officer or to a member of the
7 immediate family of such an official or officer. Such a gift shall be
8 separately identified by the date it was given, the approximate value
9 of the gift, and the name of the recipient. However, for a hosted
10 reception where the average per person amount is reported under (a) of
11 this subsection, the approximate value for the gift of partaking in the
12 event is such average per person amount. The commission shall adopt
13 forms to be used for reporting the giving of gifts under this
14 subsection (2)(f). The forms shall be designed to permit a lobbyist to
15 report on a separate form for each recipient the reportable gifts given
16 to that recipient during the reporting period or, alternatively, to
17 report on one form all reportable gifts given by the lobbyist during
18 the reporting period.

19 (3) If a state elected official or a member of such an official's
20 immediate family is identified by a lobbyist in such a report as having
21 received from the lobbyist a gift, as defined in RCW 42.17.020, the
22 lobbyist shall transmit to the official a copy of the completed form
23 used to identify the gift in the report at the same time the report is
24 filed with the commission."

25 "NEW SECTION. Sec. 3. A new section is added to chapter 42.17 RCW
26 to read as follows:

27 At the same time that an elected official or executive state
28 officer must file a statement of financial affairs under RCW
29 42.17.240(1), the official or officer shall file a statement

1 identifying each gift, as defined in RCW 42.17.020, which was received
2 by the official or officer or by a member of his or her immediate
3 family during the previous calendar year. The statement shall apply to
4 that portion of the previous calendar year during which the official or
5 officer held an office or position for which a statement of financial
6 affairs is required under RCW 42.17.240. The statement shall identify
7 the nature of the gift, the date it was received, and the name of the
8 donor. The commission may adopt a form for reporting the receipt of
9 gifts under this section or may incorporate that reporting into the
10 form or forms adopted by the commission for the statement of financial
11 affairs."

12 "Sec. 4. RCW 42.17.243 and 1977 ex.s. c 336 s 5 are each amended
13 to read as follows:

14 (1) Elected and appointed officials required to report under RCW
15 42.17.240, shall report for themselves and for members of their
16 immediate family to the commission any contributions received during
17 the preceding calendar year for the officials' use in defraying
18 nonreimbursed public office related expenses. Contributions reported
19 under this section shall be referred to as a "public office fund" and
20 shall not be transferred to a political committee nor used to promote
21 or oppose a candidate or ballot proposition, other than as provided by
22 subsection (3) (a) of this section. (~~For the purposes of this section~~
23 ~~contributions shall include reimbursements from or payments by persons,~~
24 ~~other than the state of Washington or any agency, for travel~~
25 ~~expenses.)) Reimbursements or payments for travel do not constitute
26 contributions for the purposes of this section.~~

27 A report shall be filed during the month of January of any year
28 following a year in which such contributions were received for or
29 expenditures made from a public office fund. The report shall include:

1 (a) The name and address of each contributor;

2 (b) A description of each contribution, including the date on which
3 it was received and its amount or, if its dollar value is
4 unascertainable, an estimate of its fair market value; and

5 (c) A description of each expenditure made from a public office
6 fund, including the name and address of the recipient, the amount, and
7 the date of each such expenditure.

8 (2) No report under subsection (1) of this section shall be
9 required if:

10 (a) The receipt of the contribution has been reported pursuant to
11 RCW 42.17.065 (continuing political committee reports) or RCW 42.17.090
12 (political committee reports); or

13 (b) The contribution is in the form of meals, refreshments, or
14 entertainment given in connection with official appearances or
15 occasions where public business was discussed.

16 (3) Any funds which remain in a public office fund after all
17 permissible public office related expenses have been paid may only be
18 disposed of in one or more of the following ways:

19 (a) Returned to a contributor in an amount not to exceed that
20 contributor's original contribution; or

21 (b) Donated to a charitable organization registered in accordance
22 with chapter 19.09 RCW; or

23 (c) Transferred to the state treasurer for deposit in the general
24 fund."

25 "NEW SECTION. Sec. 5. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and shall take
28 effect immediately."

1 **ESSB 5149** - H AMD
2 By Representative Anderson

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4 On page 1, line 1 of the title, after "funds;" strike the remainder
5 of the title and insert "amending RCW 42.17.020, 42.17.170, and
6 42.17.243; adding a new section to chapter 42.17 RCW; and declaring an
7 emergency."