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ENGROSSED SUBSTITUTE SENATE BILL 5034

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State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senator Kastama; by request of Public Disclosure Commission)

READ FIRST TIME 02/03/05.

1 AN ACT Relating to disclosure of and restrictions on campaign  
2 funding; amending RCW 42.17.020, 42.17.103, 42.17.110, 42.17.510, and  
3 42.17.530; reenacting and amending RCW 42.17.640; adding new sections  
4 to chapter 42.17 RCW; creating a new section; repealing RCW 42.17.505;  
5 and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **PART I - FINDINGS AND INTENT**

8 NEW SECTION. **Sec. 1.** The legislature finds that:

9 (1) Timely disclosure to voters of the identity and sources of  
10 funding for electioneering communications is vitally important to the  
11 integrity of state, local, and judicial elections.

12 (2) Electioneering communications that identify political  
13 candidates for state, local, or judicial office and that are  
14 distributed sixty days before an election for those offices are  
15 intended to influence voters and the outcome of those elections.

16 (3) The state has a compelling interest in providing voters  
17 information about electioneering communications in political campaigns  
18 concerning candidates for state, local, or judicial office so that

1 voters can be fully informed as to the: (a) Source of support or  
2 opposition to those candidates; and (b) identity of persons attempting  
3 to influence the outcome of state, local, and judicial candidate  
4 elections.

5 (4) Nondisclosure of financial information about advertising that  
6 masquerades as relating only to issues and not to candidate campaigns  
7 fosters corruption or the appearance of corruption. These consequences  
8 can be substantially avoided by full disclosure of the identity and  
9 funding of those persons paying for such advertising.

10 (5) The United States supreme court held in *McConnell et al. v.*  
11 *Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d  
12 491 (2003) that speakers seeking to influence elections do not possess  
13 an inviolable free speech right to engage in electioneering  
14 communications regarding elections, including when issue advocacy is  
15 the functional equivalent of express advocacy. Therefore, such  
16 election campaign communications can be regulated and the source of  
17 funding disclosed.

18 (6) The state also has a sufficiently compelling interest in  
19 preventing corruption in political campaigns to justify and restore  
20 contribution limits and restrictions on the use of soft money in RCW  
21 42.17.640. Those interests include restoring restrictions on the use  
22 of such funds for electioneering communications, as well as the laws  
23 preventing circumvention of those limits and restrictions.

24 NEW SECTION. **Sec. 2.** Based upon the findings in section 1 of this  
25 act, this act is narrowly tailored to accomplish the following and is  
26 intended to:

27 (1) Improve the disclosure to voters of information concerning  
28 persons and entities seeking to influence state, local, and judicial  
29 campaigns through reasonable and effective mechanisms, including  
30 improving disclosure of the source, identity, and funding of  
31 electioneering communications concerning state, local, and judicial  
32 candidate campaigns;

33 (2) Regulate electioneering communications that mention state,  
34 local, and judicial candidates and that are broadcast, mailed, erected,  
35 distributed, or otherwise published right before the election so that  
36 the public knows who is paying for such communications;

1 (3) Reenact and amend the contribution limits in RCW 42.17.640 (6)  
2 and (14) and the restrictions on the use of soft money, including as  
3 applied to electioneering communications, as those limits and  
4 restrictions were in effect following the passage of chapter 2, Laws of  
5 1993 (Initiative No. 134) and before the state supreme court decision  
6 in *Washington State Republican Party v. Washington State Public*  
7 *Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The  
8 commission is authorized to fully restore the implementation of the  
9 limits and restrictions of RCW 42.17.640 (6) and (14) in light of  
10 *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124  
11 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court  
12 upheld the disclosure and regulation of electioneering communications  
13 in political campaigns, including but not limited to issue advocacy  
14 that is the functional equivalent of express advocacy;

15 (4) Authorize the commission to adopt rules to implement this act.

16 **PART II - ELECTIONEERING COMMUNICATIONS**

17 NEW SECTION. **Sec. 3.** (1) A payment for or promise to pay for any  
18 electioneering communication shall be reported to the commission by the  
19 sponsor on forms the commission shall develop by rule to include, at a  
20 minimum, the following information:

21 (a) Name and address of the sponsor;

22 (b) Source of funds for the communication, including:

23 (i) General treasury funds. The name and address of businesses,  
24 unions, groups, associations, or other organizations using general  
25 treasury funds for the communication, however, if a business, union,  
26 group, association, or other organization undertakes a special  
27 solicitation of its members or other persons for an electioneering  
28 communication, or it otherwise receives funds for an electioneering  
29 communication, that entity shall report pursuant to (b)(ii) of this  
30 subsection;

31 (ii) Special solicitations and other funds. The name, address,  
32 and, for individuals, occupation and employer, of a person whose funds  
33 were used to pay for the electioneering communication, along with the  
34 amount, if such funds from the person have exceeded two hundred fifty  
35 dollars in the aggregate for the electioneering communication; and

1 (iii) Any other source information required or exempted by the  
2 commission by rule;

3 (c) Name and address of the person to whom an electioneering  
4 communication related expenditure was made;

5 (d) A detailed description of each expenditure of more than one  
6 hundred dollars;

7 (e) The date the expenditure was made and the date the  
8 electioneering communication was first broadcast, transmitted, mailed,  
9 erected, distributed, or otherwise published;

10 (f) The amount of the expenditure;

11 (g) The name of each candidate clearly identified in the  
12 electioneering communication, the office being sought by each  
13 candidate, and the amount of the expenditure attributable to each  
14 candidate; and

15 (h) Any other information the commission may require or exempt by  
16 rule.

17 (2) Electioneering communications shall be reported as follows:  
18 The sponsor of an electioneering communication shall report to the  
19 commission within twenty-four hours of, or on the first working day  
20 after, the date the electioneering communication is broadcast,  
21 transmitted, mailed, erected, distributed, or otherwise published.

22 (3) Electioneering communications shall be reported electronically  
23 by the sponsor using software provided or approved by the commission.  
24 The commission may make exceptions on a case-by-case basis for a  
25 sponsor who lacks the technological ability to file reports using the  
26 electronic means provided or approved by the commission.

27 (4) All persons required to report under RCW 42.17.065, 42.17.080,  
28 42.17.090, and 42.17.100 are subject to the requirements of this  
29 section, although the commission may determine by rule that persons  
30 filing according to those sections may be exempt from reporting some of  
31 the information otherwise required by this section. The commission may  
32 determine that reports filed pursuant to this section also satisfy the  
33 requirements of RCW 42.17.100 and 42.17.103.

34 (5) Failure of any sponsor to report electronically under this  
35 section shall be a violation of this chapter.

36 NEW SECTION. **Sec. 4.** (1) An electioneering communication made by

1 a person in cooperation, consultation, or concert with, or at the  
2 request or suggestion of, a candidate, a candidate's authorized  
3 committee, or their agents is a contribution to the candidate.

4 (2) An electioneering communication made by a person in  
5 cooperation, consultation, or concert with, or at the request or  
6 suggestion of, a political committee or its agents is a contribution to  
7 the political committee.

8 (3) If an electioneering communication is not a contribution  
9 pursuant to subsection (1) or (2) of this section, the sponsor shall  
10 file an affidavit or declaration so stating at the time the sponsor is  
11 required to report the electioneering communication expense under  
12 section 3 of this act.

13 NEW SECTION. **Sec. 5.** (1) The sponsor of an electioneering  
14 communication shall preserve all financial records relating to the  
15 communication, including books of account, bills, receipts, contributor  
16 information, and ledgers, for not less than five calendar years  
17 following the year in which the communication was broadcast,  
18 transmitted, mailed, erected, or otherwise published.

19 (2) All reports filed under section 3 of this act shall be  
20 certified as correct by the sponsor. If the sponsor is an individual  
21 using his or her own funds to pay for the communication, the  
22 certification shall be signed by the individual. If the sponsor is a  
23 political committee, the certification shall be signed by the committee  
24 treasurer. If the sponsor is another entity, the certification shall  
25 be signed by the individual responsible for authorizing the expenditure  
26 on the entity's behalf.

27 **PART III - AMENDMENTS TO AND REENACTMENT OF CURRENT LAWS**

28 **Sec. 6.** RCW 42.17.020 and 2002 c 75 s 1 are each amended to read  
29 as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) "Actual malice" means to act with knowledge of falsity or with  
33 reckless disregard as to truth or falsity.

34 (2) "Agency" includes all state agencies and all local agencies.  
35 "State agency" includes every state office, department, division,

1 bureau, board, commission, or other state agency. "Local agency"  
2 includes every county, city, town, municipal corporation, quasi-  
3 municipal corporation, or special purpose district, or any office,  
4 department, division, bureau, board, commission, or agency thereof, or  
5 other local public agency.

6 ((+2)) (3) "Authorized committee" means the political committee  
7 authorized by a candidate, or by the public official against whom  
8 recall charges have been filed, to accept contributions or make  
9 expenditures on behalf of the candidate or public official.

10 ((+3)) (4) "Ballot proposition" means any "measure" as defined by  
11 RCW ((29-01-110)) 29A.04.091, or any initiative, recall, or referendum  
12 proposition proposed to be submitted to the voters of the state or any  
13 municipal corporation, political subdivision, or other voting  
14 constituency from and after the time when the proposition has been  
15 initially filed with the appropriate election officer of that  
16 constituency prior to its circulation for signatures.

17 ((+4)) (5) "Benefit" means a commercial, proprietary, financial,  
18 economic, or monetary advantage, or the avoidance of a commercial,  
19 proprietary, financial, economic, or monetary disadvantage.

20 ((+5)) (6) "Bona fide political party" means:  
21 (a) An organization that has filed a valid certificate of  
22 nomination with the secretary of state under chapter ((29-24)) 29A.20  
23 RCW;

24 (b) The governing body of the state organization of a major  
25 political party, as defined in RCW ((29-01-090)) 29A.04.086, that is  
26 the body authorized by the charter or bylaws of the party to exercise  
27 authority on behalf of the state party; or

28 (c) The county central committee or legislative district committee  
29 of a major political party. There may be only one legislative district  
30 committee for each party in each legislative district.

31 ((+6)) (7) "Depository" means a bank designated by a candidate or  
32 political committee pursuant to RCW 42.17.050.

33 ((+7)) (8) "Treasurer" and "deputy treasurer" mean the individuals  
34 appointed by a candidate or political committee, pursuant to RCW  
35 42.17.050, to perform the duties specified in that section.

36 ((+8)) (9) "Candidate" means any individual who seeks nomination  
37 for election or election to public office. An individual seeks  
38 nomination or election when he or she first:

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

3 (b) Announces publicly or files for office;

4 (c) Purchases commercial advertising space or broadcast time to  
5 promote his or her candidacy; or

6 (d) Gives his or her consent to another person to take on behalf of  
7 the individual any of the actions in (a) or (c) of this subsection.

8 ~~((9))~~ (10) "Caucus political committee" means a political  
9 committee organized and maintained by the members of a major political  
10 party in the state senate or state house of representatives.

11 ~~((10))~~ (11) "Commercial advertiser" means any person who sells  
12 the service of communicating messages or producing printed material for  
13 broadcast or distribution to the general public or segments of the  
14 general public whether through the use of newspapers, magazines,  
15 television and radio stations, billboard companies, direct mail  
16 advertising companies, printing companies, or otherwise.

17 ~~((11))~~ (12) "Commission" means the agency established under RCW  
18 42.17.350.

19 ~~((12))~~ (13) "Compensation" unless the context requires a narrower  
20 meaning, includes payment in any form for real or personal property or  
21 services of any kind: PROVIDED, That for the purpose of compliance  
22 with RCW 42.17.241, the term "compensation" shall not include per diem  
23 allowances or other payments made by a governmental entity to reimburse  
24 a public official for expenses incurred while the official is engaged  
25 in the official business of the governmental entity.

26 ~~((13))~~ (14) "Continuing political committee" means a political  
27 committee that is an organization of continuing existence not  
28 established in anticipation of any particular election campaign.

29 ~~((14))~~ (15)(a) "Contribution" includes:

30 (i) A loan, gift, deposit, subscription, forgiveness of  
31 indebtedness, donation, advance, pledge, payment, transfer of funds  
32 between political committees, or anything of value, including personal  
33 and professional services for less than full consideration;

34 (ii) An expenditure made by a person in cooperation, consultation,  
35 or concert with, or at the request or suggestion of, a candidate, a  
36 political committee, or their agents;

37 (iii) The financing by a person of the dissemination, distribution,  
38 or republication, in whole or in part, of broadcast, written, graphic,

1 or other form of political advertising or electioneering communication  
2 prepared by a candidate, a political committee, or its authorized  
3 agent;

4 (iv) Sums paid for tickets to fund-raising events such as dinners  
5 and parties, except for the actual cost of the consumables furnished at  
6 the event.

7 (b) "Contribution" does not include:

8 (i) Standard interest on money deposited in a political committee's  
9 account;

10 (ii) Ordinary home hospitality;

11 (iii) A contribution received by a candidate or political committee  
12 that is returned to the contributor within five business days of the  
13 date on which it is received by the candidate or political committee;

14 (iv) A news item, feature, commentary, or editorial in a regularly  
15 scheduled news medium that is of primary interest to the general  
16 public, that is in a news medium controlled by a person whose business  
17 is that news medium, and that is not controlled by a candidate or a  
18 political committee;

19 (v) An internal political communication primarily limited to the  
20 members of or contributors to a political party organization or  
21 political committee, or to the officers, management staff, or  
22 stockholders of a corporation or similar enterprise, or to the members  
23 of a labor organization or other membership organization;

24 (vi) The rendering of personal services of the sort commonly  
25 performed by volunteer campaign workers, or incidental expenses  
26 personally incurred by volunteer campaign workers not in excess of  
27 fifty dollars personally paid for by the worker. "Volunteer services,"  
28 for the purposes of this section, means services or labor for which the  
29 individual is not compensated by any person;

30 (vii) Messages in the form of reader boards, banners, or yard or  
31 window signs displayed on a person's own property or property occupied  
32 by a person. However, a facility used for such political advertising  
33 for which a rental charge is normally made must be reported as an in-  
34 kind contribution and counts towards any applicable contribution limit  
35 of the person providing the facility;

36 (viii) Legal or accounting services rendered to or on behalf of:

37 (A) A political party or caucus political committee if the person



1 paying for the services is the regular employer of the person rendering  
2 such services; or

3 (B) A candidate or an authorized committee if the person paying for  
4 the services is the regular employer of the individual rendering the  
5 services and if the services are solely for the purpose of ensuring  
6 compliance with state election or public disclosure laws.

7 (c) Contributions other than money or its equivalent are deemed to  
8 have a monetary value equivalent to the fair market value of the  
9 contribution. Services or property or rights furnished at less than  
10 their fair market value for the purpose of assisting any candidate or  
11 political committee are deemed a contribution. Such a contribution  
12 must be reported as an in-kind contribution at its fair market value  
13 and counts towards any applicable contribution limit of the provider.

14 ~~((+15+))~~ (16) "Elected official" means any person elected at a  
15 general or special election to any public office, and any person  
16 appointed to fill a vacancy in any such office.

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

24 ~~((+17+))~~ (18) "Election campaign" means any campaign in support of  
25 or in opposition to a candidate for election to public office and any  
26 campaign in support of, or in opposition to, a ballot proposition.

27 ~~((+18+))~~ (19) "Election cycle" means the period beginning on the  
28 first day of December after the date of the last previous general  
29 election for the office that the candidate seeks and ending on November  
30 30th after the next election for the office. In the case of a special  
31 election to fill a vacancy in an office, "election cycle" means the  
32 period beginning on the day the vacancy occurs and ending on November  
33 30th after the special election.

34 ~~((+19+))~~ (20) "Electioneering communication" means any broadcast,  
35 cable, or satellite television or radio transmission, United States  
36 postal service mailing, billboard, newspaper, or periodical that:

37 (a) Clearly identifies a candidate for a state, local, or judicial

1 office either by specifically naming the candidate, or identifying the  
2 candidate without using the candidate's name;

3 (b) Is broadcast, transmitted, mailed, erected, distributed, or  
4 otherwise published within sixty days before any election for that  
5 office in the jurisdiction in which the candidate is seeking election;  
6 and

7 (c) Either alone, or in combination with one or more communications  
8 identifying the candidate by the same sponsor during the sixty days  
9 before an election, has a fair market value of five thousand dollars or  
10 more.

11 (21) "Electioneering communication" does not include:

12 (a) Usual and customary advertising of a business owned by a  
13 candidate, even if the candidate is mentioned in the advertising when  
14 the candidate has been regularly mentioned in that advertising  
15 appearing at least twelve months preceding his or her becoming a  
16 candidate;

17 (b) Advertising for candidate debates or forums when the  
18 advertising is paid for by or on behalf of the debate or forum sponsor,  
19 so long as two or more candidates for the same position have been  
20 invited to participate in the debate or forum;

21 (c) A news item, feature, commentary, or editorial in a regularly  
22 scheduled news medium that is:

23 (i) Of primary interest to the general public;

24 (ii) In a news medium controlled by a person whose business is that  
25 news medium; and

26 (iii) Not a medium controlled by a candidate or a political  
27 committee;

28 (d) Slate cards and sample ballots;

29 (e) Advertising for books, films, dissertations, or similar works  
30 (i) written by a candidate when the candidate entered into a contract  
31 for such publications or media at least twelve months before becoming  
32 a candidate, or (ii) written about a candidate;

33 (f) Public service announcements;

34 (g) A mailed internal political communication primarily limited to  
35 the members of or contributors to a political party organization or  
36 political committee, or to the officers, management staff, or  
37 stockholders of a corporation or similar enterprise, or to the members  
38 of a labor organization or other membership organization;

1        (h) An expenditure by or contribution to the authorized committee  
2 of a candidate for state, local, or judicial office; or

3        (i) Any other communication exempted by the commission through rule  
4 consistent with the intent of this chapter.

5        (22) "Expenditure" includes a payment, contribution, subscription,  
6 distribution, loan, advance, deposit, or gift of money or anything of  
7 value, and includes a contract, promise, or agreement, whether or not  
8 legally enforceable, to make an expenditure. The term "expenditure"  
9 also includes a promise to pay, a payment, or a transfer of anything of  
10 value in exchange for goods, services, property, facilities, or  
11 anything of value for the purpose of assisting, benefiting, or honoring  
12 any public official or candidate, or assisting in furthering or  
13 opposing any election campaign. For the purposes of this chapter,  
14 agreements to make expenditures, contracts, and promises to pay may be  
15 reported as estimated obligations until actual payment is made. The  
16 term "expenditure" shall not include the partial or complete repayment  
17 by a candidate or political committee of the principal of a loan, the  
18 receipt of which loan has been properly reported.

19        ~~((+20+))~~ (23) "Final report" means the report described as a final  
20 report in RCW 42.17.080(2).

21        ~~((+21+))~~ (24) "General election" for the purposes of RCW 42.17.640  
22 means the election that results in the election of a person to a state  
23 office. It does not include a primary.

24        ~~((+22+))~~ (25) "Gift," is as defined in RCW 42.52.010.

25        ~~((+23+))~~ (26) "Immediate family" includes the spouse, dependent  
26 children, and other dependent relatives, if living in the household.  
27 For the purposes of RCW 42.17.640 through 42.17.790, "immediate family"  
28 means an individual's spouse, and child, stepchild, grandchild, parent,  
29 stepparent, grandparent, brother, half brother, sister, or half sister  
30 of the individual and the spouse of any such person and a child,  
31 stepchild, grandchild, parent, stepparent, grandparent, brother, half  
32 brother, sister, or half sister of the individual's spouse and the  
33 spouse of any such person.

34        ~~((+24+))~~ (27) "Incumbent" means a person who is in present  
35 possession of an elected office.

36        (28) "Independent expenditure" means an expenditure that has each  
37 of the following elements:

1 (a) It is made in support of or in opposition to a candidate for  
2 office by a person who is not (i) a candidate for that office, (ii) an  
3 authorized committee of that candidate for that office, (iii) a person  
4 who has received the candidate's encouragement or approval to make the  
5 expenditure, if the expenditure pays in whole or in part for political  
6 advertising supporting that candidate or promoting the defeat of any  
7 other candidate or candidates for that office, or (iv) a person with  
8 whom the candidate has collaborated for the purpose of making the  
9 expenditure, if the expenditure pays in whole or in part for political  
10 advertising supporting that candidate or promoting the defeat of any  
11 other candidate or candidates for that office;

12 (b) The expenditure pays in whole or in part for political  
13 advertising that either specifically names the candidate supported or  
14 opposed, or clearly and beyond any doubt identifies the candidate  
15 without using the candidate's name; and

16 (c) The expenditure, alone or in conjunction with another  
17 expenditure or other expenditures of the same person in support of or  
18 opposition to that candidate, has a value of five hundred dollars or  
19 more. A series of expenditures, each of which is under five hundred  
20 dollars, constitutes one independent expenditure if their cumulative  
21 value is five hundred dollars or more.

22 ~~((+25+))~~ (29)(a) "Intermediary" means an individual who transmits  
23 a contribution to a candidate or committee from another person unless  
24 the contribution is from the individual's employer, immediate family as  
25 defined for purposes of RCW 42.17.640 through 42.17.790, or an  
26 association to which the individual belongs.

27 (b) A treasurer or a candidate is not an intermediary for purposes  
28 of the committee that the treasurer or candidate serves.

29 (c) A professional fund-raiser is not an intermediary if the fund-  
30 raiser is compensated for fund-raising services at the usual and  
31 customary rate.

32 (d) A volunteer hosting a fund-raising event at the individual's  
33 home is not an intermediary for purposes of that event.

34 ~~((+26+))~~ (30) "Legislation" means bills, resolutions, motions,  
35 amendments, nominations, and other matters pending or proposed in  
36 either house of the state legislature, and includes any other matter  
37 that may be the subject of action by either house or any committee of

1 the legislature and all bills and resolutions that, having passed both  
2 houses, are pending approval by the governor.

3 ~~((+27))~~ (31) "Lobby" and "lobbying" each mean attempting to  
4 influence the passage or defeat of any legislation by the legislature  
5 of the state of Washington, or the adoption or rejection of any rule,  
6 standard, rate, or other legislative enactment of any state agency  
7 under the state Administrative Procedure Act, chapter 34.05 RCW.  
8 Neither "lobby" nor "lobbying" includes an association's or other  
9 organization's act of communicating with the members of that  
10 association or organization.

11 ~~((+28))~~ (32) "Lobbyist" includes any person who lobbies either in  
12 his or her own or another's behalf.

13 ~~((+29))~~ (33) "Lobbyist's employer" means the person or persons by  
14 whom a lobbyist is employed and all persons by whom he or she is  
15 compensated for acting as a lobbyist.

16 ~~((+30))~~ (34) "Person" includes an individual, partnership, joint  
17 venture, public or private corporation, association, federal, state, or  
18 local governmental entity or agency however constituted, candidate,  
19 committee, political committee, political party, executive committee  
20 thereof, or any other organization or group of persons, however  
21 organized.

22 ~~((+31))~~ (35) "Person in interest" means the person who is the  
23 subject of a record or any representative designated by that person,  
24 except that if that person is under a legal disability, the term  
25 "person in interest" means and includes the parent or duly appointed  
26 legal representative.

27 ~~((+32))~~ (36) "Political advertising" includes any advertising  
28 displays, newspaper ads, billboards, signs, brochures, articles,  
29 tabloids, flyers, letters, radio or television presentations, or other  
30 means of mass communication, used for the purpose of appealing,  
31 directly or indirectly, for votes or for financial or other support or  
32 opposition in any election campaign.

33 ~~((+33))~~ (37) "Political committee" means any person (except a  
34 candidate or an individual dealing with his or her own funds or  
35 property) having the expectation of receiving contributions or making  
36 expenditures in support of, or opposition to, any candidate or any  
37 ballot proposition.

1           (~~(34)~~) (38) "Primary" for the purposes of RCW 42.17.640 means the  
2 procedure for nominating a candidate to state office under chapter  
3 (~~(29.18 or 29.21)~~) 29A.52 RCW or any other primary for an election that  
4 uses, in large measure, the procedures established in chapter (~~(29.18~~  
5 ~~or 29.21)~~) 29A.52 RCW.

6           (~~(35)~~) (39) "Public office" means any federal, state, judicial,  
7 county, city, town, school district, port district, special district,  
8 or other state political subdivision elective office.

9           (~~(36)~~) (40) "Public record" includes any writing containing  
10 information relating to the conduct of government or the performance of  
11 any governmental or proprietary function prepared, owned, used, or  
12 retained by any state or local agency regardless of physical form or  
13 characteristics. For the office of the secretary of the senate and the  
14 office of the chief clerk of the house of representatives, public  
15 records means legislative records as defined in RCW 40.14.100 and also  
16 means the following: All budget and financial records; personnel  
17 leave, travel, and payroll records; records of legislative sessions;  
18 reports submitted to the legislature; and any other record designated  
19 a public record by any official action of the senate or the house of  
20 representatives.

21           (~~(37)~~) (41) "Recall campaign" means the period of time beginning  
22 on the date of the filing of recall charges under RCW (~~(29.82.015)~~)  
23 29A.56.120 and ending thirty days after the recall election.

24           (~~(38)~~) (42) "Sponsor of an electioneering communications,  
25 independent expenditures, or political advertising" means the person  
26 paying for the electioneering communication, independent expenditure,  
27 or political advertising. If a person acts as an agent for another or  
28 is reimbursed by another for the payment, the original source of the  
29 payment is the sponsor.

30           (43) "State legislative office" means the office of a member of the  
31 state house of representatives or the office of a member of the state  
32 senate.

33           (~~(39)~~) (44) "State office" means state legislative office or the  
34 office of governor, lieutenant governor, secretary of state, attorney  
35 general, commissioner of public lands, insurance commissioner,  
36 superintendent of public instruction, state auditor, or state  
37 treasurer.



1 report for each subsequent independent expenditure of any size  
2 supporting or opposing the same candidate who was the subject of the  
3 previous independent expenditure, supporting or opposing that  
4 candidate's opponent, or supporting or opposing the same ballot  
5 proposition that was the subject of the previous independent  
6 expenditure.

7 (3) The special report must include at least:  
8 (a) The name and address of the person making the expenditure;  
9 (b) The name and address of the person to whom the expenditure was  
10 made;

11 (c) A detailed description of the expenditure;  
12 (d) The date the expenditure was made and the date the political  
13 advertising was first published or otherwise presented to the public;

14 (e) The amount of the expenditure;  
15 (f) The name of the candidate supported or opposed by the  
16 expenditure, the office being sought by the candidate, and whether the  
17 expenditure supports or opposes the candidate; or the name of the  
18 ballot proposition supported or opposed by the expenditure and whether  
19 the expenditure supports or opposes the ballot proposition; and

20 (g) Any other information the commission may require by rule.

21 (4) All persons required to report under RCW 42.17.065, 42.17.080,  
22 42.17.090, (~~and~~) 42.17.100, and section 3 of this act are subject to  
23 the requirements of this section. The commission may determine that  
24 reports filed pursuant to this section also satisfy the requirements of  
25 RCW 42.17.100.

26 (5) The sponsor of independent expenditures supporting a candidate  
27 or opposing that candidate's opponent required to report under this  
28 section shall file with each required report an affidavit or  
29 declaration of the person responsible for making the independent  
30 expenditure that the expenditure was not made in cooperation,  
31 consultation, or concert with, or at the request or suggestion of, the  
32 candidate, the candidate's authorized committee, or the candidate's  
33 agent, or with the encouragement or approval of the candidate, the  
34 candidate's authorized committee, or the candidate's agent.

35 **Sec. 8.** RCW 42.17.110 and 1975-'76 2nd ex.s. c 112 s 5 are each  
36 amended to read as follows:

37 (1) Each commercial advertiser who has accepted or provided



1 political advertising or electioneering communications during the  
2 election campaign shall maintain open for public inspection during the  
3 campaign and for a period of no less than three years after the date of  
4 the applicable election, during normal business hours, documents and  
5 books of account which shall specify:

6 (a) The names and addresses of persons from whom it accepted  
7 political advertising or electioneering communications;

8 (b) The exact nature and extent of the ~~((advertising))~~ services  
9 rendered; and

10 (c) The consideration and the manner of paying that consideration  
11 for such services.

12 (2) Each commercial advertiser which must comply with subsection  
13 (1) of this section shall deliver to the commission, upon its request,  
14 copies of such information as must be maintained open for public  
15 inspection pursuant to subsection (1) of this section.

16 **Sec. 9.** RCW 42.17.510 and 1995 c 397 s 19 are each amended to read  
17 as follows:

18 (1) All written political advertising, whether relating to  
19 candidates or ballot propositions, shall include the sponsor's name and  
20 address. All radio and television political advertising, whether  
21 relating to candidates or ballot propositions, shall include the  
22 sponsor's name. The use of an assumed name for the sponsor of  
23 electioneering communications, independent expenditures, or political  
24 advertising shall be unlawful. ~~((The party with which a candidate~~  
25 ~~files)) For partisan office, if a candidate has expressed a party or  
26 independent preference on the declaration of candidacy, that party or  
27 independent designation shall be clearly identified in electioneering  
28 communications, independent expenditures, or political advertising  
29 ~~((for partisan office))~~.~~

30 (2) In addition to the materials required by subsection (1) of this  
31 section, except as specifically addressed in subsections (4) and (5) of  
32 this section, all political advertising undertaken as an independent  
33 expenditure by a person or entity other than a party organization, and  
34 all electioneering communications, must include the following statement  
35 ~~((on))~~ as part of the communication "NOTICE TO VOTERS (Required by  
36 law): This advertisement is not authorized or approved by any  
37 candidate. It is paid for by (name, address, city, state)." If the

1 advertisement undertaken as an independent expenditure or  
2 electioneering communication is undertaken by a nonindividual other  
3 than a party organization, then the following notation must also be  
4 included: "Top Five Contributors," followed by a listing of the names  
5 of the five persons or entities making the largest contributions in  
6 excess of seven hundred dollars reportable under this chapter during  
7 the twelve-month period before the date of the advertisement or  
8 communication.

9 (3) The statements and listings of contributors required by  
10 subsections (1) and (2) of this section shall:

11 (a) Appear on the first page or fold of the written advertisement  
12 or communication in at least ten-point type, or in type at least ten  
13 percent of the largest size type used in a written advertisement or  
14 communication directed at more than one voter, such as a billboard or  
15 poster, whichever is larger;

16 (b) Not be subject to the half-tone or screening process; and

17 (c) Be set apart from any other printed matter(~~and~~

18 ~~(d) Be clearly spoken on any broadcast advertisement~~)).

19 (4) In an independent expenditure or electioneering communication  
20 transmitted via television or other medium that includes a visual  
21 image, the following statement must either be clearly spoken, or appear  
22 in print and be visible for at least four seconds, appear in letters  
23 greater than four percent of the visual screen height, and have a  
24 reasonable color contrast with the background: "No candidate  
25 authorized this ad. Paid for by (name, city, state)." If the  
26 advertisement or communication is undertaken by a nonindividual other  
27 than a party organization, then the following notation must also be  
28 included: "Top Five Contributors" followed by a listing of the names  
29 of the five persons or entities making the largest contributions in  
30 excess of seven hundred dollars reportable under this chapter during  
31 the twelve-month period before the date of the advertisement.  
32 Abbreviations may be used to describe contributing entities if the full  
33 name of the entity has been clearly spoken previously during the  
34 broadcast advertisement.

35 (5) The following statement shall be clearly spoken in an  
36 independent expenditure or electioneering communication transmitted by  
37 a method that does not include a visual image: "No candidate  
38 authorized this ad. Paid for by (name, city, state)." If the

1 independent expenditure or electioneering communication is undertaken  
2 by a nonindividual other than a party organization, then the following  
3 statement must also be included: "Top Five Contributors" followed by  
4 a listing of the names of the five persons or entities making the  
5 largest contributions in excess of seven hundred dollars reportable  
6 under this chapter during the twelve-month period before the date of  
7 the advertisement. Abbreviations may be used to describe contributing  
8 entities if the full name of the entity has been clearly spoken  
9 previously during the broadcast advertisement.

10 (6) Political yard signs are exempt from the requirement of  
11 subsections (1) and (2) of this section that the name and address of  
12 the sponsor of political advertising be listed on the advertising. In  
13 addition, the public disclosure commission shall, by rule, exempt from  
14 the identification requirements of subsections (1) and (2) of this  
15 section forms of political advertising such as campaign buttons,  
16 balloons, pens, pencils, sky-writing, inscriptions, and other forms of  
17 advertising where identification is impractical.

18 ((+5+)) (7) For the purposes of this section, "yard sign" means any  
19 outdoor sign with dimensions no greater than eight feet by four feet.

20 **Sec. 10.** RCW 42.17.530 and 1999 c 304 s 2 are each amended to read  
21 as follows:

22 (1) It is a violation of this chapter for a person to sponsor with  
23 actual malice:

24 (a) Political advertising or an electioneering communication that  
25 contains a false statement of material fact about a candidate for  
26 public office. However, this subsection (1)(a) does not apply to  
27 statements made by a candidate or the candidate's agent about the  
28 candidate himself or herself;

29 (b) Political advertising or an electioneering communication that  
30 falsely represents that a candidate is the incumbent for the office  
31 sought when in fact the candidate is not the incumbent;

32 (c) Political advertising or an electioneering communication that  
33 makes either directly or indirectly, a false claim stating or implying  
34 the support or endorsement of any person or organization when in fact  
35 the candidate does not have such support or endorsement.

36 (2) Any violation of this section shall be proven by clear and  
37 convincing evidence.

1       **Sec. 11.** RCW 42.17.640 and 2001 c 208 s 1 are each reenacted and  
2 amended to read as follows:

3       (1) No person, other than a bona fide political party or a caucus  
4 political committee, may make contributions to a candidate for a state  
5 legislative office that in the aggregate exceed (~~(five)~~) seven hundred  
6 dollars or to a candidate for a state office other than a state  
7 legislative office that in the aggregate exceed one thousand four  
8 hundred dollars for each election in which the candidate is on the  
9 ballot or appears as a write-in candidate. Contributions made with  
10 respect to a primary may not be made after the date of the primary.  
11 However, contributions to a candidate or a candidate's authorized  
12 committee may be made with respect to a primary until thirty days after  
13 the primary, subject to the following limitations: (a) The candidate  
14 lost the primary; (b) the candidate's authorized committee has  
15 insufficient funds to pay debts outstanding as of the date of the  
16 primary; and (c) the contributions may only be raised and spent to  
17 satisfy the outstanding debt. Contributions made with respect to a  
18 general election may not be made after the final day of the applicable  
19 election cycle.

20       (2) No person, other than a bona fide political party or a caucus  
21 political committee, may make contributions to a state official against  
22 whom recall charges have been filed, or to a political committee having  
23 the expectation of making expenditures in support of the recall of the  
24 state official, during a recall campaign that in the aggregate exceed  
25 (~~(five)~~) seven hundred dollars if for a state legislative office or one  
26 thousand four hundred dollars if for a state office other than a state  
27 legislative office.

28       (3)(a) Notwithstanding subsection (1) of this section, no bona fide  
29 political party or caucus political committee may make contributions to  
30 a candidate during an election cycle that in the aggregate exceed (i)  
31 (~~(fifty)~~) seventy cents multiplied by the number of eligible registered  
32 voters in the jurisdiction from which the candidate is elected if the  
33 contributor is a caucus political committee or the governing body of a  
34 state organization, or (ii) (~~(twenty-five)~~) thirty-five cents  
35 multiplied by the number of registered voters in the jurisdiction from  
36 which the candidate is elected if the contributor is a county central  
37 committee or a legislative district committee.

1 (b) No candidate may accept contributions from a county central  
2 committee or a legislative district committee during an election cycle  
3 that when combined with contributions from other county central  
4 committees or legislative district committees would in the aggregate  
5 exceed (~~(twenty-five)~~) thirty-five cents times the number of registered  
6 voters in the jurisdiction from which the candidate is elected.

7 (4)(a) Notwithstanding subsection (2) of this section, no bona fide  
8 political party or caucus political committee may make contributions to  
9 a state official against whom recall charges have been filed, or to a  
10 political committee having the expectation of making expenditures in  
11 support of the state official, during a recall campaign that in the  
12 aggregate exceed (i) (~~(fifty)~~) seventy cents multiplied by the number  
13 of eligible registered voters in the jurisdiction entitled to recall  
14 the state official if the contributor is a caucus political committee  
15 or the governing body of a state organization, or (ii) (~~(twenty-five)~~)  
16 thirty-five cents multiplied by the number of registered voters in the  
17 jurisdiction from which the candidate is elected if the contributor is  
18 a county central committee or a legislative district committee.

19 (b) No state official against whom recall charges have been filed,  
20 no authorized committee of the official, and no political committee  
21 having the expectation of making expenditures in support of the recall  
22 of a state official may accept contributions from a county central  
23 committee or a legislative district committee during an election cycle  
24 that when combined with contributions from other county central  
25 committees or legislative district committees would in the aggregate  
26 exceed (~~(twenty-five)~~) thirty-five cents multiplied by the number of  
27 registered voters in the jurisdiction from which the candidate is  
28 elected.

29 (5) For purposes of determining contribution limits under  
30 subsections (3) and (4) of this section, the number of eligible  
31 registered voters in a jurisdiction is the number at the time of the  
32 most recent general election in the jurisdiction.

33 (6) Notwithstanding subsections (1) through (4) of this section, no  
34 person other than an individual, bona fide political party, or caucus  
35 political committee may make contributions reportable under this  
36 chapter to a caucus political committee that in the aggregate exceed  
37 (~~(five)~~) seven hundred dollars in a calendar year or to a bona fide

1 political party that in the aggregate exceed (~~two~~) three thousand  
2 five hundred dollars in a calendar year. This subsection does not  
3 apply to loans made in the ordinary course of business.

4 (7) For the purposes of RCW 42.17.640 through 42.17.790, a  
5 contribution to the authorized political committee of a candidate, or  
6 of a state official against whom recall charges have been filed, is  
7 considered to be a contribution to the candidate or state official.

8 (8) A contribution received within the twelve-month period after a  
9 recall election concerning a state office is considered to be a  
10 contribution during that recall campaign if the contribution is used to  
11 pay a debt or obligation incurred to influence the outcome of that  
12 recall campaign.

13 (9) The contributions allowed by subsection (2) of this section are  
14 in addition to those allowed by subsection (1) of this section, and the  
15 contributions allowed by subsection (4) of this section are in addition  
16 to those allowed by subsection (3) of this section.

17 (10) RCW 42.17.640 through 42.17.790 apply to a special election  
18 conducted to fill a vacancy in a state office. However, the  
19 contributions made to a candidate or received by a candidate for a  
20 primary or special election conducted to fill such a vacancy shall not  
21 be counted toward any of the limitations that apply to the candidate or  
22 to contributions made to the candidate for any other primary or  
23 election.

24 (11) Notwithstanding the other subsections of this section, no  
25 corporation or business entity not doing business in Washington state,  
26 no labor union with fewer than ten members who reside in Washington  
27 state, and no political committee that has not received contributions  
28 of ten dollars or more from at least ten persons registered to vote in  
29 Washington state during the preceding one hundred eighty days may make  
30 contributions reportable under this chapter to a candidate, to a state  
31 official against whom recall charges have been filed, or to a political  
32 committee having the expectation of making expenditures in support of  
33 the recall of the official. This subsection does not apply to loans  
34 made in the ordinary course of business.

35 (12) Notwithstanding the other subsections of this section, no  
36 county central committee or legislative district committee may make  
37 contributions reportable under this chapter to a candidate, state  
38 official against whom recall charges have been filed, or political

1 committee having the expectation of making expenditures in support of  
2 the recall of a state official if the county central committee or  
3 legislative district committee is outside of the jurisdiction entitled  
4 to elect the candidate or recall the state official.

5 (13) No person may accept contributions that exceed the  
6 contribution limitations provided in this section.

7 (14) The following contributions are exempt from the contribution  
8 limits of this section:

9 (a) An expenditure or contribution earmarked for voter  
10 registration, for absentee ballot information, for precinct caucuses,  
11 for get-out-the-vote campaigns, for precinct judges or inspectors, for  
12 sample ballots, or for ballot counting, all without promotion of or  
13 political advertising for individual candidates; or

14 (b) An expenditure by a political committee for its own internal  
15 organization or fund raising without direct association with individual  
16 candidates.

17 **PART IV - TECHNICAL PROVISIONS**

18 NEW SECTION. **Sec. 12.** RCW 42.17.505 (Definitions) and 1988 c 199  
19 s 1 are each repealed.

20 NEW SECTION. **Sec. 13.** Part headings used in this act are not any  
21 part of the law.

22 NEW SECTION. **Sec. 14.** (1) Sections 1 through 5 of this act are  
23 each added to chapter 42.17 RCW to be codified with the subchapter  
24 heading of "Reporting of Electioneering Communications."

25 (2) The code reviser must change the subchapter heading "Political  
26 Advertising" to "Political Advertising and Electioneering  
27 Communications" in chapter 42.17 RCW.

28 NEW SECTION. **Sec. 15.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

1        NEW SECTION.   **Sec. 16.**   This act takes effect January 1, 2006.

--- END ---