

SSB 6152 - H COMM AMD

By Committee on State Government & Tribal Relations

ADOPTED AND ENGROSSED 3/4/20

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the First
4 Amendment rights of freedom of speech and free association, as they
5 relate to participating in elections, are core values in the United
6 States. The United States supreme court has repeatedly held that
7 these rights include the right to make campaign contributions in
8 support of candidates and ballot measures at the federal, state, and
9 local levels.

10 The legislature also finds, in accordance with federal law, that
11 these rights are reserved solely for citizens of the United States
12 and permanent legal residents, whether they act as individuals or in
13 association. The First Amendment protection for political speech does
14 not apply to foreign nationals, who are forbidden under 52 U.S.C.
15 Sec. 30121 from directly or indirectly making political contributions
16 or financing independent expenditures and electioneering
17 communications, either individually or collectively through a
18 corporation or other association. Furthermore, federal law prohibits
19 any person from knowingly soliciting or receiving contributions from
20 a foreign national. Therefore, it falls to individual states to help
21 protect the prohibition on foreign influence in our state and local
22 elections by requiring certification that contributions,
23 expenditures, political advertising, and electioneering
24 communications are not financed in any part by foreign nationals and
25 that foreign nationals are not involved in making decisions regarding
26 such election activity in any way.

27 **Sec. 2.** RCW 42.17A.005 and 2019 c 428 s 3 are each amended to
28 read as follows:

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

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

1 (2) "Agency" includes all state agencies and all local agencies.
2 "State agency" includes every state office, department, division,
3 bureau, board, commission, or other state agency. "Local agency"
4 includes every county, city, town, municipal corporation, quasi-
5 municipal corporation, or special purpose district, or any office,
6 department, division, bureau, board, commission, or agency thereof,
7 or other local public agency.

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

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

19 (5) "Benefit" means a commercial, proprietary, financial,
20 economic, or monetary advantage, or the avoidance of a commercial,
21 proprietary, financial, economic, or monetary disadvantage.

22 (6) "Bona fide political party" means:

23 (a) An organization that has been recognized as a minor political
24 party by the secretary of state;

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

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

33 (7) "Books of account" means:

34 (a) In the case of a campaign or political committee, a ledger or
35 similar listing of contributions, expenditures, and debts, such as a
36 campaign or committee is required to file regularly with the
37 commission, current as of the most recent business day; or

38 (b) In the case of a commercial advertiser, details of political
39 advertising or electioneering communications provided by the
40 advertiser, including the names and addresses of persons from whom it

1 accepted political advertising or electioneering communications, the
2 exact nature and extent of the services rendered and the total cost
3 and the manner of payment for the services.

4 (8) "Candidate" means any individual who seeks nomination for
5 election or election to public office. An individual seeks nomination
6 or election when the individual first:

7 (a) Receives contributions or makes expenditures or reserves
8 space or facilities with intent to promote the individual's candidacy
9 for office;

10 (b) Announces publicly or files for office;

11 (c) Purchases commercial advertising space or broadcast time to
12 promote the individual's candidacy; or

13 (d) Gives consent to another person to take on behalf of the
14 individual any of the actions in (a) or (c) of this subsection.

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

18 (10) "Commercial advertiser" means any person that sells the
19 service of communicating messages or producing material for broadcast
20 or distribution to the general public or segments of the general
21 public whether through brochures, fliers, newspapers, magazines,
22 television, radio, billboards, direct mail advertising, printing,
23 paid internet or digital communications, or any other means of mass
24 communications used for the purpose of appealing, directly or
25 indirectly, for votes or for financial or other support in any
26 election campaign.

27 (11) "Commission" means the agency established under RCW
28 42.17A.100.

29 (12) "Committee" unless the context indicates otherwise, includes
30 a political committee such as a candidate, ballot proposition,
31 recall, political, or continuing political committee.

32 (13) "Compensation" unless the context requires a narrower
33 meaning, includes payment in any form for real or personal property
34 or services of any kind. For the purpose of compliance with RCW
35 42.17A.710, "compensation" does not include per diem allowances or
36 other payments made by a governmental entity to reimburse a public
37 official for expenses incurred while the official is engaged in the
38 official business of the governmental entity.

1 (14) "Continuing political committee" means a political committee
2 that is an organization of continuing existence not limited to
3 participation in any particular election campaign or election cycle.

4 (15)(a) "Contribution" includes:

5 (i) A loan, gift, deposit, subscription, forgiveness of
6 indebtedness, donation, advance, pledge, payment, transfer of funds,
7 or anything of value, including personal and professional services
8 for less than full consideration;

9 (ii) An expenditure made by a person in cooperation,
10 consultation, or concert with, or at the request or suggestion of, a
11 candidate, a political or incidental committee, the person or persons
12 named on the candidate's or committee's registration form who direct
13 expenditures on behalf of the candidate or committee, or their
14 agents;

15 (iii) The financing by a person of the dissemination,
16 distribution, or republication, in whole or in part, of broadcast,
17 written, graphic, digital, or other form of political advertising or
18 electioneering communication prepared by a candidate, a political or
19 incidental committee, or its authorized agent;

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

23 (b) "Contribution" does not include:

24 (i) Accrued interest on money deposited in a political or
25 incidental committee's account;

26 (ii) Ordinary home hospitality;

27 (iii) A contribution received by a candidate or political or
28 incidental committee that is returned to the contributor within ten
29 business days of the date on which it is received by the candidate or
30 political or incidental committee;

31 (iv) A news item, feature, commentary, or editorial in a
32 regularly scheduled news medium that is of interest to the public,
33 that is in a news medium controlled by a person whose business is
34 that news medium, and that is not controlled by a candidate or a
35 political or incidental committee;

36 (v) An internal political communication primarily limited to the
37 members of or contributors to a political party organization or
38 political or incidental committee, or to the officers, management
39 staff, or stockholders of a corporation or similar enterprise, or to
40 the members of a labor organization or other membership organization;

1 (vi) The rendering of personal services of the sort commonly
2 performed by volunteer campaign workers, or incidental expenses
3 personally incurred by volunteer campaign workers not in excess of
4 fifty dollars personally paid for by the worker. "Volunteer
5 services," for the purposes of this subsection, means services or
6 labor for which the individual is not compensated by any person;

7 (vii) Messages in the form of reader boards, banners, or yard or
8 window signs displayed on a person's own property or property
9 occupied by a person. However, a facility used for such political
10 advertising for which a rental charge is normally made must be
11 reported as an in-kind contribution and counts toward any applicable
12 contribution limit of the person providing the facility;

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

14 (A) A political party or caucus political committee if the person
15 paying for the services is the regular employer of the person
16 rendering such services; or

17 (B) A candidate or an authorized committee if the person paying
18 for the services is the regular employer of the individual rendering
19 the services and if the services are solely for the purpose of
20 ensuring compliance with state election or public disclosure laws; or

21 (ix) The performance of ministerial functions by a person on
22 behalf of two or more candidates or political or incidental
23 committees either as volunteer services defined in (b)(vi) of this
24 subsection or for payment by the candidate or political or incidental
25 committee for whom the services are performed as long as:

26 (A) The person performs solely ministerial functions;

27 (B) A person who is paid by two or more candidates or political
28 or incidental committees is identified by the candidates and
29 political committees on whose behalf services are performed as part
30 of their respective statements of organization under RCW 42.17A.205;
31 and

32 (C) The person does not disclose, except as required by law, any
33 information regarding a candidate's or committee's plans, projects,
34 activities, or needs, or regarding a candidate's or committee's
35 contributions or expenditures that is not already publicly available
36 from campaign reports filed with the commission, or otherwise engage
37 in activity that constitutes a contribution under (a)(ii) of this
38 subsection.

39 A person who performs ministerial functions under this subsection
40 (15)(b)(ix) is not considered an agent of the candidate or committee

1 as long as the person has no authority to authorize expenditures or
2 make decisions on behalf of the candidate or committee.

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

10 (16) "Depository" means a bank, mutual savings bank, savings and
11 loan association, or credit union doing business in this state.

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

15 (18) "Election" includes any primary, general, or special
16 election for public office and any election in which a ballot
17 proposition is submitted to the voters. 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 (19) "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 (20) "Election cycle" means the period beginning on the first day
26 of January after the date of the last previous general election for
27 the office that the candidate seeks and ending on December 31st after
28 the next election for the office. In the case of a special election
29 to fill a vacancy in an office, "election cycle" means the period
30 beginning on the day the vacancy occurs and ending on December 31st
31 after the special election.

32 (21)(a) "Electioneering communication" means any broadcast,
33 cable, or satellite television, radio transmission, digital
34 communication, United States postal service mailing, billboard,
35 newspaper, or periodical that:

36 (i) Clearly identifies a candidate for a state, local, or
37 judicial office either by specifically naming the candidate, or
38 identifying the candidate without using the candidate's name;

39 (ii) Is broadcast, transmitted electronically or by other means,
40 mailed, erected, distributed, or otherwise published within sixty

1 days before any election for that office in the jurisdiction in which
2 the candidate is seeking election; and

3 (iii) Either alone, or in combination with one or more
4 communications identifying the candidate by the same sponsor during
5 the sixty days before an election, has a fair market value or cost of
6 one thousand dollars or more.

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

8 (i) Usual and customary advertising of a business owned by a
9 candidate, even if the candidate is mentioned in the advertising when
10 the candidate has been regularly mentioned in that advertising
11 appearing at least twelve months preceding the candidate becoming a
12 candidate;

13 (ii) Advertising for candidate debates or forums when the
14 advertising is paid for by or on behalf of the debate or forum
15 sponsor, so long as two or more candidates for the same position have
16 been invited to participate in the debate or forum;

17 (iii) A news item, feature, commentary, or editorial in a
18 regularly scheduled news medium that is:

19 (A) Of interest to the public;

20 (B) In a news medium controlled by a person whose business is
21 that news medium; and

22 (C) Not a medium controlled by a candidate or a political or
23 incidental committee;

24 (iv) Slate cards and sample ballots;

25 (v) Advertising for books, films, dissertations, or similar works
26 (A) written by a candidate when the candidate entered into a contract
27 for such publications or media at least twelve months before becoming
28 a candidate, or (B) written about a candidate;

29 (vi) Public service announcements;

30 (vii) An internal political communication primarily limited to
31 the members of or contributors to a political party organization or
32 political or incidental committee, or to the officers, management
33 staff, or stockholders of a corporation or similar enterprise, or to
34 the members of a labor organization or other membership organization;

35 (viii) An expenditure by or contribution to the authorized
36 committee of a candidate for state, local, or judicial office; or

37 (ix) Any other communication exempted by the commission through
38 rule consistent with the intent of this chapter.

39 (22) "Expenditure" includes a payment, contribution,
40 subscription, distribution, loan, advance, deposit, or gift of money

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

14 (23) "Final report" means the report described as a final report
15 in RCW 42.17A.235(11) (a).

16 (24) "Foreign national" means:

17 (a) An individual who is not a citizen of the United States and
18 is not lawfully admitted for permanent residence;

19 (b) A government, or subdivision, of a foreign country;

20 (c) A foreign political party; and

21 (d) Any entity, such as a partnership, association, corporation,
22 organization, or other combination of persons, that is organized
23 under the laws of or has its principal place of business in a foreign
24 country.

25 (25) "General election" for the purposes of RCW 42.17A.405 means
26 the election that results in the election of a person to a state or
27 local office. It does not include a primary.

28 ~~((25))~~ (26) "Gift" has the definition in RCW 42.52.010.

29 ~~((26))~~ (27) "Immediate family" includes the spouse or domestic
30 partner, dependent children, and other dependent relatives, if living
31 in the household. For the purposes of the definition of
32 "intermediary" in this section, "immediate family" means an
33 individual's spouse or domestic partner, and child, stepchild,
34 grandchild, parent, stepparent, grandparent, brother, half brother,
35 sister, or half sister of the individual and the spouse or the
36 domestic partner of any such person and a child, stepchild,
37 grandchild, parent, stepparent, grandparent, brother, half brother,
38 sister, or half sister of the individual's spouse or domestic partner
39 and the spouse or the domestic partner of any such person.

1 ~~((27))~~ (28) "Incidental committee" means any nonprofit
2 organization not otherwise defined as a political committee but that
3 may incidentally make a contribution or an expenditure in excess of
4 the reporting thresholds in RCW 42.17A.235, directly or through a
5 political committee. Any nonprofit organization is not an incidental
6 committee if it is only remitting payments through the nonprofit
7 organization in an aggregated form and the nonprofit organization is
8 not required to report those payments in accordance with this
9 chapter.

10 ~~((28))~~ (29) "Incumbent" means a person who is in present
11 possession of an elected office.

12 ~~((29))~~ (30)(a) "Independent expenditure" means an expenditure
13 that has each of the following elements:

14 (i) It is made in support of or in opposition to a candidate for
15 office by a person who is not:

16 (A) A candidate for that office;

17 (B) An authorized committee of that candidate for that office;

18 and

19 (C) A person who has received the candidate's encouragement or
20 approval to make the expenditure, if the expenditure pays in whole or
21 in part for political advertising supporting that candidate or
22 promoting the defeat of any other candidate or candidates for that
23 office;

24 (ii) It is made in support of or in opposition to a candidate for
25 office by a person with whom the candidate has not collaborated for
26 the purpose of making the expenditure, if the expenditure pays in
27 whole or in part for political advertising supporting that candidate
28 or promoting the defeat of any other candidate or candidates for that
29 office;

30 (iii) The expenditure pays in whole or in part for political
31 advertising that either specifically names the candidate supported or
32 opposed, or clearly and beyond any doubt identifies the candidate
33 without using the candidate's name; and

34 (iv) The expenditure, alone or in conjunction with another
35 expenditure or other expenditures of the same person in support of or
36 opposition to that candidate, has a value of one thousand dollars or
37 more. A series of expenditures, each of which is under one thousand
38 dollars, constitutes one independent expenditure if their cumulative
39 value is one thousand dollars or more.

1 (b) "Independent expenditure" does not include: Ordinary home
2 hospitality; communications with journalists or editorial staff
3 designed to elicit a news item, feature, commentary, or editorial in
4 a regularly scheduled news medium that is of primary interest to the
5 general public, controlled by a person whose business is that news
6 medium, and not controlled by a candidate or a political committee;
7 participation in the creation of a publicly funded voters pamphlet
8 statement in written or video form; an internal political
9 communication primarily limited to contributors to a political party
10 organization or political action committee, the officers, management
11 staff, and stockholders of a corporation or similar enterprise, or
12 the members of a labor organization or other membership organization;
13 or the rendering of personal services of the sort commonly performed
14 by volunteer campaign workers or incidental expenses personally
15 incurred by volunteer campaign workers not in excess of two hundred
16 fifty dollars personally paid for by the worker.

17 (~~(30)~~) (31) (a) "Intermediary" means an individual who transmits
18 a contribution to a candidate or committee from another person unless
19 the contribution is from the individual's employer, immediate family,
20 or an association to which the individual belongs.

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

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

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

28 (~~(31)~~) (32) "Legislation" means bills, resolutions, motions,
29 amendments, nominations, and other matters pending or proposed in
30 either house of the state legislature, and includes any other matter
31 that may be the subject of action by either house or any committee of
32 the legislature and all bills and resolutions that, having passed
33 both houses, are pending approval by the governor.

34 (~~(32)~~) (33) "Legislative office" means the office of a member
35 of the state house of representatives or the office of a member of
36 the state senate.

37 (~~(33)~~) (34) "Lobby" and "lobbying" each mean attempting to
38 influence the passage or defeat of any legislation by the legislature
39 of the state of Washington, or the adoption or rejection of any rule,
40 standard, rate, or other legislative enactment of any state agency

1 under the state administrative procedure act, chapter 34.05 RCW.
2 Neither "lobby" nor "lobbying" includes an association's or other
3 organization's act of communicating with the members of that
4 association or organization.

5 ~~((34))~~ (35) "Lobbyist" includes any person who lobbies either
6 on the person's own or another's behalf.

7 ~~((35))~~ (36) "Lobbyist's employer" means the person or persons
8 by whom a lobbyist is employed and all persons by whom the lobbyist
9 is compensated for acting as a lobbyist.

10 ~~((36))~~ (37) "Ministerial functions" means an act or duty
11 carried out as part of the duties of an administrative office without
12 exercise of personal judgment or discretion.

13 ~~((37))~~ (38) "Participate" means that, with respect to a
14 particular election, an entity:

15 (a) Makes either a monetary or in-kind contribution to a
16 candidate;

17 (b) Makes an independent expenditure or electioneering
18 communication in support of or opposition to a candidate;

19 (c) Endorses a candidate before contributions are made by a
20 subsidiary corporation or local unit with respect to that candidate
21 or that candidate's opponent;

22 (d) Makes a recommendation regarding whether a candidate should
23 be supported or opposed before a contribution is made by a subsidiary
24 corporation or local unit with respect to that candidate or that
25 candidate's opponent; or

26 (e) Directly or indirectly collaborates or consults with a
27 subsidiary corporation or local unit on matters relating to the
28 support of or opposition to a candidate, including, but not limited
29 to, the amount of a contribution, when a contribution should be
30 given, and what assistance, services or independent expenditures, or
31 electioneering communications, if any, will be made or should be made
32 in support of or opposition to a candidate.

33 ~~((38))~~ (39) "Person" includes an individual, partnership, joint
34 venture, public or private corporation, association, federal, state,
35 or local governmental entity or agency however constituted,
36 candidate, committee, political committee, political party, executive
37 committee thereof, or any other organization or group of persons,
38 however organized.

39 ~~((39))~~ (40) "Political advertising" includes any advertising
40 displays, newspaper ads, billboards, signs, brochures, articles,

1 tabloids, flyers, letters, radio or television presentations, digital
2 communication, or other means of mass communication, used for the
3 purpose of appealing, directly or indirectly, for votes or for
4 financial or other support or opposition in any election campaign.

5 ~~((40))~~ (41) "Political committee" means any person (except a
6 candidate or an individual dealing with the candidate's or
7 individual's own funds or property) having the expectation of
8 receiving contributions or making expenditures in support of, or
9 opposition to, any candidate or any ballot proposition.

10 ~~((41))~~ (42) "Primary" for the purposes of RCW 42.17A.405 means
11 the procedure for nominating a candidate to state or local office
12 under chapter 29A.52 RCW or any other primary for an election that
13 uses, in large measure, the procedures established in chapter 29A.52
14 RCW.

15 ~~((42))~~ (43) "Public office" means any federal, state, judicial,
16 county, city, town, school district, port district, special district,
17 or other state political subdivision elective office.

18 ~~((43))~~ (44) "Public record" has the definition in RCW
19 42.56.010.

20 ~~((44))~~ (45) "Recall campaign" means the period of time
21 beginning on the date of the filing of recall charges under RCW
22 29A.56.120 and ending thirty days after the recall election.

23 ~~((45))~~ (46) "Remediable violation" means any violation of this
24 chapter that:

25 (a) Involved expenditures or contributions totaling no more than
26 the contribution limits set out under RCW 42.17A.405(2) per election,
27 or one thousand dollars if there is no statutory limit;

28 (b) Occurred:

29 (i) More than thirty days before an election, where the
30 commission entered into an agreement to resolve the matter; or

31 (ii) At any time where the violation did not constitute a
32 material violation because it was inadvertent and minor or otherwise
33 has been cured and, after consideration of all the circumstances,
34 further proceedings would not serve the purposes of this chapter;

35 (c) Does not materially harm the public interest, beyond the harm
36 to the policy of this chapter inherent in any violation; and

37 (d) Involved:

38 (i) A person who:

39 (A) Took corrective action within five business days after the
40 commission first notified the person of noncompliance, or where the

1 commission did not provide notice and filed a required report within
2 twenty-one days after the report was due to be filed; and

3 (B) Substantially met the filing deadline for all other required
4 reports within the immediately preceding twelve-month period; or

5 (ii) A candidate who:

6 (A) Lost the election in question; and

7 (B) Did not receive contributions over one hundred times the
8 contribution limit in aggregate per election during the campaign in
9 question.

10 (~~((46))~~) (47) (a) "Sponsor" for purposes of an electioneering
11 communications, independent expenditures, or political advertising
12 means the person paying for the electioneering communication,
13 independent expenditure, or political advertising. If a person acts
14 as an agent for another or is reimbursed by another for the payment,
15 the original source of the payment is the sponsor.

16 (b) "Sponsor," for purposes of a political or incidental
17 committee, means any person, except an authorized committee, to whom
18 any of the following applies:

19 (i) The committee receives eighty percent or more of its
20 contributions either from the person or from the person's members,
21 officers, employees, or shareholders;

22 (ii) The person collects contributions for the committee by use
23 of payroll deductions or dues from its members, officers, or
24 employees.

25 (~~((47))~~) (48) "Sponsored committee" means a committee, other than
26 an authorized committee, that has one or more sponsors.

27 (~~((48))~~) (49) "State office" means state legislative office or
28 the office of governor, lieutenant governor, secretary of state,
29 attorney general, commissioner of public lands, insurance
30 commissioner, superintendent of public instruction, state auditor, or
31 state treasurer.

32 (~~((49))~~) (50) "State official" means a person who holds a state
33 office.

34 (~~((50))~~) (51) "Surplus funds" mean, in the case of a political
35 committee or candidate, the balance of contributions that remain in
36 the possession or control of that committee or candidate subsequent
37 to the election for which the contributions were received, and that
38 are in excess of the amount necessary to pay remaining debts or
39 expenses incurred by the committee or candidate with respect to that
40 election. In the case of a continuing political committee, "surplus

1 funds" mean those contributions remaining in the possession or
2 control of the committee that are in excess of the amount necessary
3 to pay all remaining debts or expenses when it makes its final report
4 under RCW 42.17A.255.

5 ~~((51))~~ (52) "Technical correction" means the correction of a
6 minor or ministerial error in a required report that does not
7 materially harm the public interest and needs to be corrected for the
8 report to be in full compliance with the requirements of this
9 chapter.

10 ~~((52))~~ (53) "Treasurer" and "deputy treasurer" mean the
11 individuals appointed by a candidate or political or incidental
12 committee, pursuant to RCW 42.17A.210, to perform the duties
13 specified in that section.

14 ~~((53))~~ (54) "Violation" means a violation of this chapter that
15 is not a remediable violation, minor violation, or an error
16 classified by the commission as appropriate to address by a technical
17 correction.

18 **Sec. 3.** RCW 42.17A.240 and 2019 c 428 s 21 are each amended to
19 read as follows:

20 Each report required under RCW 42.17A.235 (1) through (4) must be
21 certified as correct by the treasurer and the candidate and shall
22 disclose the following, except an incidental committee only must
23 disclose and certify as correct the information required under
24 subsections (2)(d) and ~~((6))~~ (7) of this section:

25 (1) The funds on hand at the beginning of the period;

26 (2) The name and address of each person who has made one or more
27 contributions during the period, together with the money value and
28 date of each contribution and the aggregate value of all
29 contributions received from each person during the campaign, or in
30 the case of a continuing political committee, the current calendar
31 year, with the following exceptions:

32 (a) Pledges in the aggregate of less than one hundred dollars
33 from any one person need not be reported;

34 (b) Income that results from a fund-raising activity conducted in
35 accordance with RCW 42.17A.230 may be reported as one lump sum, with
36 the exception of that portion received from persons whose names and
37 addresses are required to be included in the report required by RCW
38 42.17A.230;

1 (c) Contributions of no more than twenty-five dollars in the
2 aggregate from any one person during the election campaign may be
3 reported as one lump sum if the treasurer maintains a separate and
4 private list of the name, address, and amount of each such
5 contributor;

6 (d) Payments received by an incidental committee from any one
7 person need not be reported unless the person is one of the
8 committee's ten largest sources of payments received, including any
9 persons tied as the tenth largest source of payments received, during
10 the current calendar year, and the value of the cumulative payments
11 received from that person during the current calendar year is ten
12 thousand dollars or greater. For payments to incidental committees
13 from multiple persons received in aggregated form, any payment of
14 more than ten thousand dollars from any single person must be
15 reported, but the aggregated payment itself may not be reported. The
16 commission may suspend or modify reporting requirements for payments
17 received by an incidental committee in cases of manifestly
18 unreasonable hardship under this chapter;

19 (e) Payments from private foundations organized under section
20 501(c)(3) of the internal revenue code to an incidental committee do
21 not have to be reported if:

22 (i) The private foundation is contracting with the incidental
23 committee for a specific purpose other than election campaign
24 purposes;

25 (ii) Use of the funds for election campaign purposes is
26 explicitly prohibited by contract; and

27 (iii) Funding from the private foundation represents less than
28 twenty-five percent of the incidental committee's total budget;

29 (f) Commentary or analysis on a ballot proposition by an
30 incidental committee is not considered a contribution if it does not
31 advocate specifically to vote for or against the ballot proposition;
32 and

33 (g) The money value of contributions of postage is the face value
34 of the postage;

35 (3) Each loan, promissory note, or security instrument to be used
36 by or for the benefit of the candidate or political committee made by
37 any person, including the names and addresses of the lender and each
38 person liable directly, indirectly or contingently and the date and
39 amount of each such loan, promissory note, or security instrument;

40 (4) All other contributions not otherwise listed or exempted;

1 (5) A statement that the candidate or political committee has
2 received a certification from any partnership, association,
3 corporation, organization, or other combination of persons making a
4 contribution to the candidate or political committee that:

5 (a) The contribution is not financed in any part by a foreign
6 national; and

7 (b) Foreign nationals are not involved in making decisions
8 regarding the contribution in any way;

9 (6) The name and address of each candidate or political committee
10 to which any transfer of funds was made, including the amounts and
11 dates of the transfers;

12 ~~((+6))~~ (7) The name and address of each person to whom an
13 expenditure was made in the aggregate amount of more than fifty
14 dollars during the period covered by this report, the amount, date,
15 and purpose of each expenditure, and the total sum of all
16 expenditures. An incidental committee only must report on
17 expenditures, made and reportable as contributions as defined in RCW
18 42.17A.005, to election campaigns. For purposes of this subsection,
19 commentary or analysis on a ballot proposition by an incidental
20 committee is not considered an expenditure if it does not advocate
21 specifically to vote for or against the ballot proposition;

22 ~~((+7))~~ (8) The name, address, and electronic contact information
23 of each person to whom an expenditure was made for soliciting or
24 procuring signatures on an initiative or referendum petition, the
25 amount of the compensation to each person, and the total expenditures
26 made for this purpose. Such expenditures shall be reported under this
27 subsection in addition to what is required to be reported under
28 subsection ~~((+6))~~ (7) of this section;

29 ~~((+8))~~ (9)(a) The name and address of any person and the amount
30 owed for any debt with a value of more than seven hundred fifty
31 dollars that has not been paid for any invoices submitted, goods
32 received, or services performed, within five business days during the
33 period within thirty days before an election, or within ten business
34 days during any other period.

35 (b) For purposes of this subsection, debt does not include
36 regularly recurring expenditures of the same amount that have already
37 been reported at least once and that are not late or outstanding;

38 ~~((+9))~~ (10) The surplus or deficit of contributions over
39 expenditures;

1 (~~(10)~~) (11) The disposition made in accordance with RCW
2 42.17A.430 of any surplus funds; and

3 (~~(11)~~) (12) Any other information required by the commission by
4 rule in conformance with the policies and purposes of this chapter.

5 **Sec. 4.** RCW 42.17A.250 and 2010 c 204 s 411 are each amended to
6 read as follows:

7 (1) An out-of-state political committee organized for the purpose
8 of supporting or opposing candidates or ballot propositions in
9 another state that is not otherwise required to report under RCW
10 42.17A.205 through 42.17A.240 shall report as required in this
11 section when it makes an expenditure supporting or opposing a
12 Washington state candidate or political committee. The committee
13 shall file with the commission a statement disclosing:

14 (a) Its name and address;

15 (b) The purposes of the out-of-state committee;

16 (c) The names, addresses, and titles of its officers or, if it
17 has no officers, the names, addresses, and the titles of its
18 responsible leaders;

19 (d) The name, office sought, and party affiliation of each
20 candidate in the state of Washington whom the out-of-state committee
21 is supporting or opposing and, if the committee is supporting or
22 opposing the entire ticket of any party, the name of the party;

23 (e) The ballot proposition supported or opposed in the state of
24 Washington, if any, and whether the committee is in favor of or
25 opposed to that proposition;

26 (f) The name and address of each person residing in the state of
27 Washington or corporation that has a place of business in the state
28 of Washington who has made one or more contributions in the aggregate
29 of more than twenty-five dollars to the out-of-state committee during
30 the current calendar year, together with the money value and date of
31 the contributions;

32 (g) The name, address, and employer of each person or corporation
33 residing outside the state of Washington who has made one or more
34 contributions in the aggregate of more than two thousand five hundred
35 fifty dollars to the out-of-state committee during the current
36 calendar year, together with the money value and date of the
37 contributions. Annually, the commission must modify the two thousand
38 five hundred fifty dollar limit in this subsection based on
39 percentage change in the implicit price deflator for personal

1 consumption expenditures for the United States as published for the
2 most recent twelve-month period by the bureau of economic analysis of
3 the federal department of commerce;

4 (h) The name and address of each person in the state of
5 Washington to whom an expenditure was made by the out-of-state
6 committee with respect to a candidate or political committee in the
7 aggregate amount of more than fifty dollars, the amount, date, and
8 purpose of the expenditure, and the total sum of the expenditures;
9 ((and))

10 (i) A statement that the out-of-state committee has received a
11 certification from any partnership, association, corporation,
12 organization, or other combination of persons making a contribution
13 reportable under this section that:

14 (i) The contribution is not financed in any part by a foreign
15 national; and

16 (ii) Foreign nationals are not involved in making decisions
17 regarding the contribution in any way; and

18 (j) Any other information as the commission may prescribe by rule
19 in keeping with the policies and purposes of this chapter.

20 (2) Each statement shall be filed no later than the tenth day of
21 the month following any month in which a contribution or other
22 expenditure reportable under subsection (1) of this section is made.
23 An out-of-state committee incurring an obligation to file additional
24 statements in a calendar year may satisfy the obligation by timely
25 filing reports that supplement previously filed information.

26 **Sec. 5.** RCW 42.17A.255 and 2019 c 428 s 22 are each amended to
27 read as follows:

28 (1) For the purposes of this section the term "independent
29 expenditure" means any expenditure that is made in support of or in
30 opposition to any candidate or ballot proposition and is not
31 otherwise required to be reported pursuant to RCW 42.17A.225,
32 42.17A.235, and 42.17A.240. "Independent expenditure" does not
33 include: An internal political communication primarily limited to the
34 contributors to a political party organization or political action
35 committee, or the officers, management staff, and stockholders of a
36 corporation or similar enterprise, or the members of a labor
37 organization or other membership organization; or the rendering of
38 personal services of the sort commonly performed by volunteer
39 campaign workers, or incidental expenses personally incurred by

1 volunteer campaign workers not in excess of fifty dollars personally
2 paid for by the worker. "Volunteer services," for the purposes of
3 this section, means services or labor for which the individual is not
4 compensated by any person.

5 (2) Within five days after the date of making an independent
6 expenditure that by itself or when added to all other such
7 independent expenditures made during the same election campaign by
8 the same person equals one hundred dollars or more, or within five
9 days after the date of making an independent expenditure for which no
10 reasonable estimate of monetary value is practicable, whichever
11 occurs first, the person who made the independent expenditure shall
12 file with the commission an initial report of all independent
13 expenditures made during the campaign prior to and including such
14 date.

15 (3) At the following intervals each person who is required to
16 file an initial report pursuant to subsection (2) of this section
17 shall file with the commission a further report of the independent
18 expenditures made since the date of the last report:

19 (a) On the twenty-first day and the seventh day preceding the
20 date on which the election is held; and

21 (b) On the tenth day of the first month after the election; and

22 (c) On the tenth day of each month in which no other reports are
23 required to be filed pursuant to this section. However, the further
24 reports required by this subsection (3) shall only be filed if the
25 reporting person has made an independent expenditure since the date
26 of the last previous report filed.

27 The report filed pursuant to (a) of this subsection (3) shall be
28 the final report, and upon submitting such final report the duties of
29 the reporting person shall cease, and there shall be no obligation to
30 make any further reports.

31 (4) All reports filed pursuant to this section shall be certified
32 as correct by the reporting person.

33 (5) Each report required by subsections (2) and (3) of this
34 section shall disclose for the period beginning at the end of the
35 period for the last previous report filed or, in the case of an
36 initial report, beginning at the time of the first independent
37 expenditure, and ending not more than one business day before the
38 date the report is due:

39 (a) The name, address, and electronic contact information of the
40 person filing the report;

1 (b) The name and address of each person to whom an independent
2 expenditure was made in the aggregate amount of more than fifty
3 dollars, and the amount, date, and purpose of each such expenditure.
4 If no reasonable estimate of the monetary value of a particular
5 independent expenditure is practicable, it is sufficient to report
6 instead a precise description of services, property, or rights
7 furnished through the expenditure and where appropriate to attach a
8 copy of the item produced or distributed by the expenditure;

9 (c) The total sum of all independent expenditures made during the
10 campaign to date; (~~and~~)

11 (d) A statement from the person making an independent expenditure
12 that:

13 (i) The expenditure is not financed in any part by a foreign
14 national; and

15 (ii) Foreign nationals are not involved in making decisions
16 regarding the expenditure in any way; and

17 (e) Such other information as shall be required by the commission
18 by rule in conformance with the policies and purposes of this
19 chapter.

20 **Sec. 6.** RCW 42.17A.260 and 2019 c 428 s 23 are each amended to
21 read as follows:

22 (1) The sponsor of political advertising shall file a special
23 report to the commission within twenty-four hours of, or on the first
24 working day after, the date the political advertising is first
25 published, mailed, or otherwise presented to the public, if the
26 political advertising:

27 (a) Is published, mailed, or otherwise presented to the public
28 within twenty-one days of an election; and

29 (b) Either:

30 (i) Qualifies as an independent expenditure with a fair market
31 value or actual cost of one thousand dollars or more, for political
32 advertising supporting or opposing a candidate; or

33 (ii) Has a fair market value or actual cost of one thousand
34 dollars or more, for political advertising supporting or opposing a
35 ballot proposition.

36 (2) If a sponsor is required to file a special report under this
37 section, the sponsor shall also deliver to the commission within the
38 delivery period established in subsection (1) of this section a
39 special report for each subsequent independent expenditure of any

1 size supporting or opposing the same candidate who was the subject of
2 the previous independent expenditure, supporting or opposing that
3 candidate's opponent, or, in the case of a subsequent expenditure of
4 any size made in support of or in opposition to a ballot proposition
5 not otherwise required to be reported pursuant to RCW 42.17A.225,
6 42.17A.235, or 42.17A.240, supporting or opposing the same ballot
7 proposition that was the subject of the previous expenditure.

8 (3) The special report must include:

9 (a) The name and address of the person making the expenditure;

10 (b) The name and address of the person to whom the expenditure
11 was made;

12 (c) A detailed description of the expenditure;

13 (d) The date the expenditure was made and the date the political
14 advertising was first published or otherwise presented to the public;

15 (e) The amount of the expenditure;

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

22 (g) A statement from the sponsor that:

23 (i) The political advertising is not financed in any part by a
24 foreign national; and

25 (ii) Foreign nationals are not involved in making decisions
26 regarding the political advertising in any way; and

27 (h) Any other information the commission may require by rule.

28 (4) All persons required to report under RCW 42.17A.225,
29 42.17A.235, 42.17A.240, 42.17A.255, and 42.17A.305 are subject to the
30 requirements of this section. The commission may determine that
31 reports filed pursuant to this section also satisfy the requirements
32 of RCW 42.17A.255.

33 (5) The sponsor of independent expenditures supporting a
34 candidate or opposing that candidate's opponent required to report
35 under this section shall file with each required report an affidavit
36 or declaration of the person responsible for making the independent
37 expenditure that the expenditure was not made in cooperation,
38 consultation, or concert with, or at the request or suggestion of,
39 the candidate, the candidate's authorized committee, or the
40 candidate's agent, or with the encouragement or approval of the

1 candidate, the candidate's authorized committee, or the candidate's
2 agent.

3 **Sec. 7.** RCW 42.17A.265 and 2019 c 428 s 24 are each amended to
4 read as follows:

5 (1) Treasurers shall prepare and deliver to the commission a
6 special report when a contribution or aggregate of contributions
7 totals one thousand dollars or more, is from a single person or
8 entity, and is received during a special reporting period.

9 (2) A political committee shall prepare and deliver to the
10 commission a special report when it makes a contribution or an
11 aggregate of contributions to a single entity that totals one
12 thousand dollars or more during a special reporting period.

13 (3) An aggregate of contributions includes only those
14 contributions made to or received from a single entity during any one
15 special reporting period. Any subsequent contribution of any size
16 made to or received from the same person or entity during the special
17 reporting period must also be reported.

18 (4) Special reporting periods, for purposes of this section,
19 include:

20 (a) The period beginning on the day after the last report
21 required by RCW 42.17A.235 and 42.17A.240 to be filed before a
22 primary and concluding on the end of the day before that primary;

23 (b) The period twenty-one days preceding a general election; and

24 (c) An aggregate of contributions includes only those
25 contributions received from a single entity during any one special
26 reporting period or made by the contributing political committee to a
27 single entity during any one special reporting period.

28 (5) If a campaign treasurer files a special report under this
29 section for one or more contributions received from a single entity
30 during a special reporting period, the treasurer shall also file a
31 special report under this section for each subsequent contribution of
32 any size which is received from that entity during the special
33 reporting period. If a political committee files a special report
34 under this section for a contribution or contributions made to a
35 single entity during a special reporting period, the political
36 committee shall also file a special report for each subsequent
37 contribution of any size which is made to that entity during the
38 special reporting period.

1 (6) Special reports required by this section shall be delivered
2 electronically, or in written form if an electronic alternative is
3 not available.

4 (a) The special report required of a contribution recipient under
5 subsection (1) of this section shall be delivered to the commission
6 within forty-eight hours of the time, or on the first working day
7 after: The contribution of one thousand dollars or more is received
8 by the candidate or treasurer; the aggregate received by the
9 candidate or treasurer first equals one thousand dollars or more; or
10 any subsequent contribution from the same source is received by the
11 candidate or treasurer.

12 (b) The special report required of a contributor under subsection
13 (2) of this section or RCW 42.17A.625 shall be delivered to the
14 commission, and the candidate or political committee to whom the
15 contribution or contributions are made, within twenty-four hours of
16 the time, or on the first working day after: The contribution is
17 made; the aggregate of contributions made first equals one thousand
18 dollars or more; or any subsequent contribution to the same person or
19 entity is made.

20 (7) The special report shall include:

21 (a) The amount of the contribution or contributions;

22 (b) The date or dates of receipt;

23 (c) The name and address of the donor;

24 (d) The name and address of the recipient; ~~((and))~~

25 (e) A statement that the candidate or political committee has
26 received a certification from any partnership, association,
27 corporation, organization, or other combination of persons making a
28 contribution reportable under this section that:

29 (i) The contribution is not financed in any part by a foreign
30 national; and

31 (ii) Foreign nationals are not involved in making decisions
32 regarding the contribution in any way; and

33 (f) Any other information the commission may by rule require.

34 (8) Contributions reported under this section shall also be
35 reported as required by other provisions of this chapter.

36 (9) The commission shall prepare daily a summary of the special
37 reports made under this section and RCW 42.17A.625.

38 (10) Contributions governed by this section include, but are not
39 limited to, contributions made or received indirectly through a third

1 party or entity whether the contributions are or are not reported to
2 the commission as earmarked contributions under RCW 42.17A.270.

3 **Sec. 8.** RCW 42.17A.305 and 2019 c 428 s 25 are each amended to
4 read as follows:

5 (1) A payment for or promise to pay for any electioneering
6 communication shall be reported to the commission by the sponsor on
7 forms the commission shall develop by rule to include, at a minimum,
8 the following information:

9 (a) Name and address of the sponsor;

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

11 (i) General treasury funds. The name and address of businesses,
12 unions, groups, associations, or other organizations using general
13 treasury funds for the communication, however, if a business, union,
14 group, association, or other organization undertakes a special
15 solicitation of its members or other persons for an electioneering
16 communication, or it otherwise receives funds for an electioneering
17 communication, that entity shall report pursuant to (b)(ii) of this
18 subsection;

19 (ii) Special solicitations and other funds. The name, address,
20 and, for individuals, occupation and employer, of a person whose
21 funds were used to pay for the electioneering communication, along
22 with the amount, if such funds from the person have exceeded two
23 hundred fifty dollars in the aggregate for the electioneering
24 communication; (~~and~~)

25 (iii) A statement from the sponsor that:

26 (A) The electioneering communication is not financed in any part
27 by a foreign national; and

28 (B) Foreign nationals are not involved in making decisions
29 regarding the electioneering communication in any way; and

30 (iv) Any other source information required or exempted by the
31 commission by rule;

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

34 (d) A detailed description of each expenditure of more than one
35 hundred dollars;

36 (e) The date the expenditure was made and the date the
37 electioneering communication was first broadcast, transmitted,
38 mailed, erected, distributed, or otherwise published;

39 (f) The amount of the expenditure;

1 (g) The name of each candidate clearly identified in the
2 electioneering communication, the office being sought by each
3 candidate, and the amount of the expenditure attributable to each
4 candidate; and

5 (h) Any other information the commission may require or exempt by
6 rule.

7 (2) Electioneering communications shall be reported as follows:
8 The sponsor of an electioneering communication shall report to the
9 commission within twenty-four hours of, or on the first working day
10 after, the date the electioneering communication is broadcast,
11 transmitted, mailed, erected, distributed, digitally or otherwise, or
12 otherwise published.

13 (3) Electioneering communications shall be reported
14 electronically by the sponsor using software provided or approved by
15 the commission. The commission may make exceptions on a case-by-case
16 basis for a sponsor who lacks the technological ability to file
17 reports using the electronic means provided or approved by the
18 commission.

19 (4) All persons required to report under RCW 42.17A.225,
20 42.17A.235, 42.17A.240, and 42.17A.255 are subject to the
21 requirements of this section, although the commission may determine
22 by rule that persons filing according to those sections may be exempt
23 from reporting some of the information otherwise required by this
24 section. The commission may determine that reports filed pursuant to
25 this section also satisfy the requirements of RCW 42.17A.255 and
26 42.17A.260.

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

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 42.17A
30 RCW to read as follows:

31 (1) A foreign national may not make a contribution to any
32 candidate or political committee, make an expenditure in support of
33 or in opposition to any candidate or ballot measure, or sponsor
34 political advertising or an electioneering communication.

35 (2) A person may not make a contribution to any candidate or
36 political committee, make an expenditure in support of or in
37 opposition to any candidate or ballot measure, or sponsor political
38 advertising or an electioneering communication, if:

1 (a) The contribution, expenditure, political advertising, or
2 electioneering communication is financed in any part by a foreign
3 national; or

4 (b) Foreign nationals are involved in making decisions regarding
5 the contribution, expenditure, political advertising, or
6 electioneering communication in any way.

7 NEW SECTION. **Sec. 10.** A new section is added to chapter 42.17A
8 RCW to read as follows:

9 (1) Each candidate or political committee that has accepted a
10 contribution, and each out-of-state committee that has accepted a
11 contribution reportable under RCW 42.17A.250, from a partnership,
12 association, corporation, organization, or other combination of
13 persons must receive a certification from each contributor that:

14 (a) The contribution is not financed in any part by a foreign
15 national; and

16 (b) Foreign nationals are not involved in making decisions
17 regarding the contribution in any way.

18 (2) The certifications must be maintained for a period of no less
19 than three years after the date of the applicable election.

20 (3) At the request of the commission, each candidate or committee
21 required to comply with subsection (1) of this section must provide
22 to the commission copies of the certifications maintained under this
23 section.

24 NEW SECTION. **Sec. 11.** A new section is added to chapter 42.17A
25 RCW to read as follows:

26 This act does not affect or modify the power of a local
27 government to adopt an ordinance or regulation on matters governed by
28 this act."

29 Correct the title.

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