Chapter 18, Laws of 1991
(partial veto)

52nd Legislature
1991 First Special Session

PUBLIC OFFICERS--GIFT REPORTING AND PUBLIC OFFICE FUND REQUIREMENTS

EFFECTIVE DATE: 9/29/91

Passed by the Senate June 28, 1991
Yeas 45  Nays 0

JOEL PRITCHARD
President of the Senate

Passed by the House June 27, 1991
Yeas 93  Nays 0

CERTIFICATE
I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE SENATE BILL 5149 as passed by the Senate and the House of Representatives on the dates hereon set forth.

JOE KING
Speaker of the House of Representatives

GORDON A. GOLOB
Secretary

Approved July 2, 1991, with the exception of section 5, which is vetoed.

FILED
July 2, 1991 - 4:54 p.m.

BOOTH GARDNER
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to gifts and public office funds; amending RCW 42.17.020, 42.17.170, and 42.17.243; adding a new section to chapter 42.17 RCW; and declaring an emergency.

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

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

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

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

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

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

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

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

(b) Announces publicly or files for office.

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

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

(8) "Compensation" unless the context requires a narrower meaning,
includes payment in any form for real or personal property or services
of any kind: PROVIDED, That for the purpose of compliance with RCW
42.17.241, the term "compensation" shall not include per diem
allowances or other payments made by a governmental entity to reimburse
a public official for expenses incurred while the official is engaged
in the official business of the governmental entity.
(9) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(10) "Contribution" includes a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or transfer of anything of value, including personal and professional services for less than full consideration, but does not include interest on moneys deposited in a political committee's account, ordinary home hospitality and the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. Volunteer services, for the purposes of this chapter, means services or labor for which the individual is not compensated by any person. For the purposes of this chapter, contributions other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution. Sums paid for tickets to fund-raising events such as dinners and parties are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting requirements of this chapter, by the actual cost of consumables furnished in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables shall be deemed a contribution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association’s or other organization’s act of communicating with the members of that association or organization.

(20) "Lobbyist" includes any person who lobbies either in his own or another’s behalf.

(21) "Lobbyist’s employer" means the person or persons by whom a lobbyist is employed and all persons by whom he is compensated for acting as a lobbyist.

(22) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.
"Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

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

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

"Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

"Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

"Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a
continuing political committee, "surplus funds" mean those
contributions remaining in the possession or control of the committee
that are in excess of the amount necessary to pay all remaining debts
when it makes its final report under RCW 42.17.065.

"Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any
form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

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

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

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

(2) Each such monthly periodic report shall contain:

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

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

(i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;
(ii) Any expenses incurred for his or her own living accommodations;
(iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;
(iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

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

(c) An itemized listing of each such expenditure in the nature of a contribution of money or of tangible or intangible personal property to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made
to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

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

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

(f) A listing of each gift, as defined in RCW 42.17.020, made to a state elected official or executive state officer or to a member of the immediate family of such an official or officer. Such a gift shall be separately identified by the date it was given, the approximate value of the gift, and the name of the recipient. However, for a hosted reception where the average per person amount is reported under (a) of this subsection, the approximate value for the gift of partaking in the event is such average per person amount. The commission shall adopt forms to be used for reporting the giving of gifts under this subsection (2)(f). The forms shall be designed to permit a lobbyist to report on a separate form for each recipient the reportable gifts given to that recipient during the reporting period or, alternatively, to report on one form all reportable gifts given by the lobbyist during the reporting period.
(3) If a state elected official or a member of such an official’s immediate family is identified by a lobbyist in such a report as having received from the lobbyist a gift, as defined in RCW 42.17.020, the lobbyist shall transmit to the official a copy of the completed form used to identify the gift in the report at the same time the report is filed with the commission.

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

At the same time that an elected official or executive state officer must file a statement of financial affairs under RCW 42.17.240(1), the official or officer shall file a statement identifying each gift, as defined in RCW 42.17.020, which was received by the official or officer or by a member of his or her immediate family during the previous calendar year. The statement shall apply to that portion of the previous calendar year during which the official or officer held an office or position for which a statement of financial affairs is required under RCW 42.17.240. The statement shall identify the nature of the gift, the date it was received, and the name of the donor. The commission may adopt a form for reporting the receipt of gifts under this section or may incorporate that reporting into the form or forms adopted by the commission for the statement of financial affairs.

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

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

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

(a) The name and address of each contributor;

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

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

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

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

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

(3) Any funds which remain in a public office fund after all
permissible public office related expenses have been paid may only be
disposed of in one or more of the following ways:
(a) Returned to a contributor in an amount not to exceed that
contributor’s original contribution; or
(b) Donated to a charitable organization registered in accordance
with chapter 19.09 RCW; or
(c) Transferred to the state treasurer for deposit in the general
fund.

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

*Sec. 5 was vetoed, see message at end of chapter.

Passed the Senate June 28, 1991.
Approved by the Governor July 2, 1991, with the exception of
certain items which were vetoed.
Filed in Office of Secretary of State July 2, 1991.

Note: Governor’s explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 5,
Engrossed Substitute Senate Bill No. 5149 entitled:

"AN ACT Relating to gifts and public office funds."

This bill represents a positive step in the area of public
disclosure by requiring lobbyists and public officials to report
certain gifts. The bill contains an emergency clause making the
disclosure requirements effective immediately. The bill was originally
proposed by the Public Disclosure Commission and did not contain an
emergency clause. A short period of time is required to allow both the
Commission and the approximately five thousand individuals affected by
this bill to set up reporting procedures and record-keeping mechanisms.
The Public Disclosure Commission agrees that a veto of the emergency
clause is appropriate. For this reason, I have vetoed the emergency
clause set out in section 5.

With the exception of section 5, Engrossed Substitute Senate Bill
No. 5149 is approved."