

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 5034**

Chapter 445, Laws of 2005

59th Legislature  
2005 Regular Session

CAMPAIGN FUNDING

EFFECTIVE DATE: 1/1/06 - Except sections 6 and 12, which become effective 7/1/05.

Passed by the Senate April 20, 2005  
YEAS 26 NAYS 20

BRAD OWEN

**President of the Senate**

Passed by the House April 13, 2005  
YEAS 56 NAYS 40

FRANK CHOPP

**Speaker of the House of Representatives**

Approved May 13, 2005.

CHRISTINE GREGOIRE  
**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5034** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

**Secretary**

FILED

May 13, 2005 - 2:42 p.m.

**Secretary of State  
State of Washington**



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) "Participate" means that, with respect to a  
17 particular election, an entity:

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

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

21 (c) Endorses a candidate prior to contributions being made by a  
22 subsidiary corporation or local unit with respect to that candidate or  
23 that candidate's opponent;

24 (d) Makes a recommendation regarding whether a candidate should be  
25 supported or opposed prior to a contribution being made by a subsidiary  
26 corporation or local unit with respect to that candidate or that  
27 candidate's opponent; or

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

35 (35) "Person" includes an individual, partnership, joint venture,  
36 public or private corporation, association, federal, state, or local  
37 governmental entity or agency however constituted, candidate,

1 committee, political committee, political party, executive committee  
2 thereof, or any other organization or group of persons, however  
3 organized.

4 ~~((31))~~ (36) "Person in interest" means the person who is the  
5 subject of a record or any representative designated by that person,  
6 except that if that person is under a legal disability, the term  
7 "person in interest" means and includes the parent or duly appointed  
8 legal representative.

9 ~~((32))~~ (37) "Political advertising" includes any advertising  
10 displays, newspaper ads, billboards, signs, brochures, articles,  
11 tabloids, flyers, letters, radio or television presentations, or other  
12 means of mass communication, used for the purpose of appealing,  
13 directly or indirectly, for votes or for financial or other support or  
14 opposition in any election campaign.

15 ~~((33))~~ (38) "Political committee" means any person (except a  
16 candidate or an individual dealing with his or her own funds or  
17 property) having the expectation of receiving contributions or making  
18 expenditures in support of, or opposition to, any candidate or any  
19 ballot proposition.

20 ~~((34))~~ (39) "Primary" for the purposes of RCW 42.17.640 means the  
21 procedure for nominating a candidate to state office under chapter  
22 ~~((29.18 or 29.21))~~ 29A.52 RCW or any other primary for an election that  
23 uses, in large measure, the procedures established in chapter ~~((29.18~~  
24 ~~or 29.21))~~ 29A.52 RCW.

25 ~~((35))~~ (40) "Public office" means any federal, state, judicial,  
26 county, city, town, school district, port district, special district,  
27 or other state political subdivision elective office.

28 ~~((36))~~ (41) "Public record" includes any writing containing  
29 information relating to the conduct of government or the performance of  
30 any governmental or proprietary function prepared, owned, used, or  
31 retained by any state or local agency regardless of physical form or  
32 characteristics. For the office of the secretary of the senate and the  
33 office of the chief clerk of the house of representatives, public  
34 records means legislative records as defined in RCW 40.14.100 and also  
35 means the following: All budget and financial records; personnel  
36 leave, travel, and payroll records; records of legislative sessions;  
37 reports submitted to the legislature; and any other record designated

1 a public record by any official action of the senate or the house of  
2 representatives.

3 ~~((37))~~ (42) "Recall campaign" means the period of time beginning  
4 on the date of the filing of recall charges under RCW ~~((29.82.015))~~  
5 29A.56.120 and ending thirty days after the recall election.

6 ~~((38))~~ (43) "Sponsor of an electioneering communications,  
7 independent expenditures, or political advertising" means the person  
8 paying for the electioneering communication, independent expenditure,  
9 or political advertising. If a person acts as an agent for another or  
10 is reimbursed by another for the payment, the original source of the  
11 payment is the sponsor.

12 (44) "State legislative office" means the office of a member of the  
13 state house of representatives or the office of a member of the state  
14 senate.

15 ~~((39))~~ (45) "State office" means state legislative office or the  
16 office of governor, lieutenant governor, secretary of state, attorney  
17 general, commissioner of public lands, insurance commissioner,  
18 superintendent of public instruction, state auditor, or state  
19 treasurer.

20 ~~((40))~~ (46) "State official" means a person who holds a state  
21 office.

22 ~~((41))~~ (47) "Surplus funds" mean, in the case of a political  
23 committee or candidate, the balance of contributions that remain in the  
24 possession or control of that committee or candidate subsequent to the  
25 election for which the contributions were received, and that are in  
26 excess of the amount necessary to pay remaining debts incurred by the  
27 committee or candidate prior to that election. In the case of a  
28 continuing political committee, "surplus funds" mean those  
29 contributions remaining in the possession or control of the committee  
30 that are in excess of the amount necessary to pay all remaining debts  
31 when it makes its final report under RCW 42.17.065.

32 ~~((42))~~ (48) "Writing" means handwriting, typewriting, printing,  
33 photostating, photographing, and every other means of recording any  
34 form of communication or representation, including, but not limited to,  
35 letters, words, pictures, sounds, or symbols, or combination thereof,  
36 and all papers, maps, magnetic or paper tapes, photographic films and  
37 prints, motion picture, film and video recordings, magnetic or punched



1 cards, discs, drums, diskettes, sound recordings, and other documents  
2 including existing data compilations from which information may be  
3 obtained or translated.

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

6 **Sec. 7.** RCW 42.17.103 and 2001 c 54 s 1 are each amended to read  
7 as follows:

8 (1) The sponsor of political advertising who, within twenty-one  
9 days of an election, publishes, mails, or otherwise presents to the  
10 public political advertising supporting or opposing a candidate or  
11 ballot proposition that qualifies as an independent expenditure with a  
12 fair market value of one thousand dollars or more shall deliver, either  
13 electronically or in written form, a special report to the commission  
14 within twenty-four hours of, or on the first working day after, the  
15 date the political advertising is first published, mailed, or otherwise  
16 presented to the public.

17 (2) If a sponsor is required to file a special report under this  
18 section, the sponsor shall also deliver to the commission within the  
19 delivery period established in subsection (1) of this section a special  
20 report for each subsequent independent expenditure of any size  
21 supporting or opposing the same candidate who was the subject of the  
22 previous independent expenditure, supporting or opposing that  
23 candidate's opponent, or supporting or opposing the same ballot  
24 proposition that was the subject of the previous independent  
25 expenditure.

26 (3) The special report must include at least:

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

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

30 (c) A detailed description of the expenditure;

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

33 (e) The amount of the expenditure;

34 (f) The name of the candidate supported or opposed by the  
35 expenditure, the office being sought by the candidate, and whether the  
36 expenditure supports or opposes the candidate; or the name of the

1 ballot proposition supported or opposed by the expenditure and whether  
2 the expenditure supports or opposes the ballot proposition; and

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

4 (4) All persons required to report under RCW 42.17.065, 42.17.080,  
5 42.17.090, (~~and~~) 42.17.100, and section 3 of this act are subject to  
6 the requirements of this section. The commission may determine that  
7 reports filed pursuant to this section also satisfy the requirements of  
8 RCW 42.17.100.

9 (5) The sponsor of independent expenditures supporting a candidate  
10 or opposing that candidate's opponent required to report under this  
11 section shall file with each required report an affidavit or  
12 declaration of the person responsible for making the independent  
13 expenditure that the expenditure was not made in cooperation,  
14 consultation, or concert with, or at the request or suggestion of, the  
15 candidate, the candidate's authorized committee, or the candidate's  
16 agent, or with the encouragement or approval of the candidate, the  
17 candidate's authorized committee, or the candidate's agent.

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

20 (1) Each commercial advertiser who has accepted or provided  
21 political advertising or electioneering communications during the  
22 election campaign shall maintain open for public inspection during the  
23 campaign and for a period of no less than three years after the date of  
24 the applicable election, during normal business hours, documents and  
25 books of account which shall specify:

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

28 (b) The exact nature and extent of the (~~advertising~~) services  
29 rendered; and

30 (c) The consideration and the manner of paying that consideration  
31 for such services.

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

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

3       (1) All written political advertising, whether relating to  
4 candidates or ballot propositions, shall include the sponsor's name and  
5 address. All radio and television political advertising, whether  
6 relating to candidates or ballot propositions, shall include the  
7 sponsor's name. The use of an assumed name for the sponsor of  
8 electioneering communications, independent expenditures, or political  
9 advertising shall be unlawful. ((The party with which a candidate  
10 files)) For partisan office, if a candidate has expressed a party or  
11 independent preference on the declaration of candidacy, that party or  
12 independent designation shall be clearly identified in electioneering  
13 communications, independent expenditures, or political advertising  
14 ((for partisan office)).

15       (2) In addition to the materials required by subsection (1) of this  
16 section, except as specifically addressed in subsections (4) and (5) of  
17 this section, all political advertising undertaken as an independent  
18 expenditure by a person or entity other than a party organization, and  
19 all electioneering communications, must include the following statement  
20 ((~~on~~)) as part of the communication "NOTICE TO VOTERS (Required by  
21 law): This advertisement is not authorized or approved by any  
22 candidate. It is paid for by (name, address, city, state)." If the  
23 advertisement undertaken as an independent expenditure or  
24 electioneering communication is undertaken by a nonindividual other  
25 than a party organization, then the following notation must also be  
26 included: "Top Five Contributors," followed by a listing of the names  
27 of the five persons or entities making the largest contributions in  
28 excess of seven hundred dollars reportable under this chapter during  
29 the twelve-month period before the date of the advertisement or  
30 communication.

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

33       (a) Appear on the first page or fold of the written advertisement  
34 or communication in at least ten-point type, or in type at least ten  
35 percent of the largest size type used in a written advertisement or  
36 communication directed at more than one voter, such as a billboard or  
37 poster, whichever is larger;

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

1 (c) Be set apart from any other printed matter(~~and~~  
2 ~~(d) Be clearly spoken on any broadcast advertisement~~)).

3 (4) In an independent expenditure or electioneering communication  
4 transmitted via television or other medium that includes a visual  
5 image, the following statement must either be clearly spoken, or appear  
6 in print and be visible for at least four seconds, appear in letters  
7 greater than four percent of the visual screen height, and have a  
8 reasonable color contrast with the background: "No candidate  
9 authorized this ad. Paid for by (name, city, state)." If the  
10 advertisement or communication is undertaken by a nonindividual other  
11 than a party organization, then the following notation must also be  
12 included: "Top Five Contributors" followed by a listing of the names  
13 of the five persons or entities making the largest contributions in  
14 excess of seven hundred dollars reportable under this chapter during  
15 the twelve-month period before the date of the advertisement.  
16 Abbreviations may be used to describe contributing entities if the full  
17 name of the entity has been clearly spoken previously during the  
18 broadcast advertisement.

19 (5) The following statement shall be clearly spoken in an  
20 independent expenditure or electioneering communication transmitted by  
21 a method that does not include a visual image: "No candidate  
22 authorized this ad. Paid for by (name, city, state)." If the  
23 independent expenditure or electioneering communication is undertaken  
24 by a nonindividual other than a party organization, then the following  
25 statement must also be included: "Top Five Contributors" followed by  
26 a listing of the names of the five persons or entities making the  
27 largest contributions in excess of seven hundred dollars reportable  
28 under this chapter during the twelve-month period before the date of  
29 the advertisement. Abbreviations may be used to describe contributing  
30 entities if the full name of the entity has been clearly spoken  
31 previously during the broadcast advertisement.

32 (6) Political yard signs are exempt from the requirement of  
33 subsections (1) and (2) of this section that the name and address of  
34 the sponsor of political advertising be listed on the advertising. In  
35 addition, the public disclosure commission shall, by rule, exempt from  
36 the identification requirements of subsections (1) and (2) of this  
37 section forms of political advertising such as campaign buttons,

1 balloons, pens, pencils, sky-writing, inscriptions, and other forms of  
2 advertising where identification is impractical.

3 ~~((+5+))~~ (7) For the purposes of this section, "yard sign" means any  
4 outdoor sign with dimensions no greater than eight feet by four feet.

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

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

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

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

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

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

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

25 (1) No person, other than a bona fide political party or a caucus  
26 political committee, may make contributions to a candidate for a state  
27 legislative office that in the aggregate exceed ~~((five))~~ seven hundred  
28 dollars or to a candidate for a state office other than a state  
29 legislative office that in the aggregate exceed one thousand four  
30 hundred dollars for each election in which the candidate is on the  
31 ballot or appears as a write-in candidate. Contributions made with  
32 respect to a primary may not be made after the date of the primary.  
33 However, contributions to a candidate or a candidate's authorized  
34 committee may be made with respect to a primary until thirty days after  
35 the primary, subject to the following limitations: (a) The candidate  
36 lost the primary; (b) the candidate's authorized committee has

1 insufficient funds to pay debts outstanding as of the date of the  
2 primary; and (c) the contributions may only be raised and spent to  
3 satisfy the outstanding debt. Contributions made with respect to a  
4 general election may not be made after the final day of the applicable  
5 election cycle.

6 (2) No person, other than a bona fide political party or a caucus  
7 political committee, may make contributions to a state official against  
8 whom recall charges have been filed, or to a political committee having  
9 the expectation of making expenditures in support of the recall of the  
10 state official, during a recall campaign that in the aggregate exceed  
11 (~~(five)~~) seven hundred dollars if for a state legislative office or one  
12 thousand four hundred dollars if for a state office other than a state  
13 legislative office.

14 (3)(a) Notwithstanding subsection (1) of this section, no bona fide  
15 political party or caucus political committee may make contributions to  
16 a candidate during an election cycle that in the aggregate exceed (i)  
17 (~~(fifty)~~) seventy cents multiplied by the number of eligible registered  
18 voters in the jurisdiction from which the candidate is elected if the  
19 contributor is a caucus political committee or the governing body of a  
20 state organization, or (ii) (~~(twenty-five)~~) thirty-five cents  
21 multiplied by the number of registered voters in the jurisdiction from  
22 which the candidate is elected if the contributor is a county central  
23 committee or a legislative district committee.

24 (b) No candidate may accept contributions from a county central  
25 committee or a legislative district committee during an election cycle  
26 that when combined with contributions from other county central  
27 committees or legislative district committees would in the aggregate  
28 exceed (~~(twenty-five)~~) thirty-five cents times the number of registered  
29 voters in the jurisdiction from which the candidate is elected.

30 (4)(a) Notwithstanding subsection (2) of this section, no bona fide  
31 political party or caucus political committee may make contributions to  
32 a state official against whom recall charges have been filed, or to a  
33 political committee having the expectation of making expenditures in  
34 support of the state official, during a recall campaign that in the  
35 aggregate exceed (i) (~~(fifty)~~) seventy cents multiplied by the number  
36 of eligible registered voters in the jurisdiction entitled to recall  
37 the state official if the contributor is a caucus political committee  
38 or the governing body of a state organization, or (ii) (~~(twenty-five)~~)

1 thirty-five cents multiplied by the number of registered voters in the  
2 jurisdiction from which the candidate is elected if the contributor is  
3 a county central committee or a legislative district committee.

4 (b) No state official against whom recall charges have been filed,  
5 no authorized committee of the official, and no political committee  
6 having the expectation of making expenditures in support of the recall  
7 of a state official may accept contributions from a county central  
8 committee or a legislative district committee during an election cycle  
9 that when combined with contributions from other county central  
10 committees or legislative district committees would in the aggregate  
11 exceed (~~twenty-five~~) thirty-five cents multiplied by the number of  
12 registered voters in the jurisdiction from which the candidate is  
13 elected.

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

18 (6) Notwithstanding subsections (1) through (4) of this section, no  
19 person other than an individual, bona fide political party, or caucus  
20 political committee may make contributions reportable under this  
21 chapter to a caucus political committee that in the aggregate exceed  
22 (~~five~~) seven hundred dollars in a calendar year or to a bona fide  
23 political party that in the aggregate exceed (~~two~~) three thousand  
24 five hundred dollars in a calendar year. This subsection does not  
25 apply to loans made in the ordinary course of business.

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

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

35 (9) The contributions allowed by subsection (2) of this section are  
36 in addition to those allowed by subsection (1) of this section, and the  
37 contributions allowed by subsection (4) of this section are in addition  
38 to those allowed by subsection (3) of this section.

1 (10) RCW 42.17.640 through 42.17.790 apply to a special election  
2 conducted to fill a vacancy in a state office. However, the  
3 contributions made to a candidate or received by a candidate for a  
4 primary or special election conducted to fill such a vacancy shall not  
5 be counted toward any of the limitations that apply to the candidate or  
6 to contributions made to the candidate for any other primary or  
7 election.

8 (11) Notwithstanding the other subsections of this section, no  
9 corporation or business entity not doing business in Washington state,  
10 no labor union with fewer than ten members who reside in Washington  
11 state, and no political committee that has not received contributions  
12 of ten dollars or more from at least ten persons registered to vote in  
13 Washington state during the preceding one hundred eighty days may make  
14 contributions reportable under this chapter to a candidate, to a state  
15 official against whom recall charges have been filed, or to a political  
16 committee having the expectation of making expenditures in support of  
17 the recall of the official. This subsection does not apply to loans  
18 made in the ordinary course of business.

19 (12) Notwithstanding the other subsections of this section, no  
20 county central committee or legislative district committee may make  
21 contributions reportable under this chapter to a candidate, state  
22 official against whom recall charges have been filed, or political  
23 committee having the expectation of making expenditures in support of  
24 the recall of a state official if the county central committee or  
25 legislative district committee is outside of the jurisdiction entitled  
26 to elect the candidate or recall the state official.

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

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

31 (a) An expenditure or contribution earmarked for voter  
32 registration, for absentee ballot information, for precinct caucuses,  
33 for get-out-the-vote campaigns, for precinct judges or inspectors, for  
34 sample ballots, or for ballot counting, all without promotion of or  
35 political advertising for individual candidates; or

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





1        NEW SECTION.    **Sec. 16.** If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 17.** Sections 6 and 12 of this act are necessary  
6 for the immediate preservation of the public peace, health, or safety,  
7 or support of the state government and its existing public  
8 institutions, and take effect July 1, 2005. The remainder of this act  
9 takes effect January 1, 2006.

    Passed by the Senate April 20, 2005.

    Passed by the House April 13, 2005.

    Approved by the Governor May 13, 2005.

    Filed in Office of Secretary of State May 13, 2005.