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

7 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 delineate between legitimate business use of public records and
9 inappropriate commercial use. It is also the intent of the legislature
10 to protect the privacy of citizens from inappropriate commercial use of
11 public records by providing disincentives for such use. It is also the
12 intent of the legislature to allow agencies to recover a reasonable
13 share of the costs of providing contracted enhanced electronic access
14 to public records for business purposes. Furthermore, the legislature
15 seeks to encourage public-private cooperation in ways that further the
16 public mission of the state and to maintain and enhance public access
17 to public records for the purpose of encouraging public oversight and
18 facilitating other desirable social and economic benefits.

19 **Sec. 2.** RCW 42.17.020 and 1995 c 397 s 1 are each amended to read
20 as follows:

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

28 (2) "Authorized committee" means the political committee authorized
29 by a candidate, or by the public official against whom recall charges
30 have been filed, to accept contributions or make expenditures on behalf
31 of the candidate or public official.

32 (3) "Ballot proposition" means any "measure" as defined by RCW
33 29.01.110, or any initiative, recall, or referendum proposition
34 proposed to be submitted to the voters of the state or any municipal
35 corporation, political subdivision, or other voting constituency from

1 and after the time when the proposition has been initially filed with
2 the appropriate election officer of that constituency prior to its
3 circulation for signatures.

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

7 (5) "Bona fide political party" means:

8 (a) An organization that has filed a valid certificate of
9 nomination with the secretary of state under chapter 29.24 RCW;

10 (b) The governing body of the state organization of a major
11 political party, as defined in RCW 29.01.090, that is the body
12 authorized by the charter or bylaws of the party to exercise authority
13 on behalf of the state party; or

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

17 (6) "Business use" or "business purpose" means a use of public
18 records, including, but not limited to those records that contain
19 personally identifiable information, in government data bases for the
20 purpose of meeting regulatory requirements, conducting business in a
21 safe and legal manner, or validating information provided by one party,
22 and does not result in an unsolicited commercial contact to persons
23 identified in such records. Furthermore such business use or business
24 purpose must comply with the provisions of RCW 42.17.300 (2) through
25 (4).

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

28 ((+7)) (8) "Treasurer" and "deputy treasurer" mean the individuals
29 appointed by a candidate or political committee, pursuant to RCW
30 42.17.050, to perform the duties specified in that section.

31 ((+8)) (9) "Candidate" means any individual who seeks nomination
32 for election or election to public office. An individual seeks
33 nomination or election when he or she first:

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

36 (b) Announces publicly or files for office;

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

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

3 ~~((9))~~ (10) "Caucus political committee" means a political
4 committee organized and maintained by the members of a major political
5 party in the state senate or state house of representatives.

6 ~~((10))~~ (11) "Commercial advertiser" means any person who sells
7 the service of communicating messages or producing printed material for
8 broadcast or distribution to the general public or segments of the
9 general public whether through the use of newspapers, magazines,
10 television and radio stations, billboard companies, direct mail
11 advertising companies, printing companies, or otherwise.

12 ~~((11))~~ (12) "Commission" means the agency established under RCW
13 42.17.350.

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

22 ~~((13))~~ (14) "Continuing political committee" means a political
23 committee that is an organization of continuing existence not
24 established in anticipation of any particular election campaign.

25 ~~((14))~~ (15)(a) "Contribution" includes:

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

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

33 (iii) The financing by a person of the dissemination, distribution,
34 or republication, in whole or in part, of broadcast, written, graphic,
35 or other form of political advertising prepared by a candidate, a
36 political committee, or its authorized agent;

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

1 (b) "Contribution" does not include:
2 (i) Standard interest on money deposited in a political committee's
3 account;
4 (ii) Ordinary home hospitality;
5 (iii) A contribution received by a candidate or political committee
6 that is returned to the contributor within five business days of the
7 date on which it is received by the candidate or political committee;
8 (iv) A news item, feature, commentary, or editorial in a regularly
9 scheduled news medium that is of primary interest to the general
10 public, that is in a news medium controlled by a person whose business
11 is that news medium, and that is not controlled by a candidate or a
12 political committee;
13 (v) An internal political communication primarily limited to the
14 members of or contributors to a political party organization or
15 political committee, or to the officers, management staff, or
16 stockholders of a corporation or similar enterprise, or to the members
17 of a labor organization or other membership organization;
18 (vi) The rendering of personal services of the sort commonly
19 performed by volunteer campaign workers, or incidental expenses
20 personally incurred by volunteer campaign workers not in excess of
21 fifty dollars personally paid for by the worker. "Volunteer services,"
22 for the purposes of this section, means services or labor for which the
23 individual is not compensated by any person;
24 (vii) Messages in the form of reader boards, banners, or yard or
25 window signs displayed on a person's own property or property occupied
26 by a person. However, a facility used for such political advertising
27 for which a rental charge is normally made must be reported as an in-
28 kind contribution and counts towards any applicable contribution limit
29 of the person providing the facility;
30 (viii) Legal or accounting services rendered to or on behalf of:
31 (A) A political party or caucus political committee if the person
32 paying for the services is the regular employer of the person rendering
33 such services; or
34 (B) A candidate or an authorized committee if the person paying for
35 the services is the regular employer of the individual rendering the
36 services and if the services are solely for the purpose of ensuring
37 compliance with state election or public disclosure laws.
38 (c) Contributions other than money or its equivalent are deemed to
39 have a monetary value equivalent to the fair market value of the

1 contribution. Services or property or rights furnished at less than
2 their fair market value for the purpose of assisting any candidate or
3 political committee are deemed a contribution. Such a contribution
4 must be reported as an in-kind contribution at its fair market value
5 and counts towards any applicable contribution limit of the provider.

6 ~~((15))~~ (16) "Elected official" means any person elected at a
7 general or special election to any public office, and any person
8 appointed to fill a vacancy in any such office.

9 ~~((16))~~ (17) "Election" includes any primary, general, or special
10 election for public office and any election in which a ballot
11 proposition is submitted to the voters: PROVIDED, That an election in
12 which the qualifications for voting include other than those
13 requirements set forth in Article VI, section 1 (Amendment 63) of the
14 Constitution of the state of Washington shall not be considered an
15 election for purposes of this chapter.

16 ~~((17))~~ (18) "Election campaign" means any campaign in support of
17 or in opposition to a candidate for election to public office and any
18 campaign in support of, or in opposition to, a ballot proposition.

19 ~~((18))~~ (19) "Election cycle" means the period beginning on the
20 first day of December after the date of the last previous general
21 election for the office that the candidate seeks and ending on November
22 30th after the next election for the office. In the case of a special
23 election to fill a vacancy in an office, "election cycle" means the
24 period beginning on the day the vacancy occurs and ending on November
25 30th after the special election.

26 ~~((19))~~ (20) "Enhanced electronic access" means the contracted
27 electronic delivery of public records in a format or through electronic
28 delivery systems, by written agreement that complies with RCW 42.17.300
29 (2) through (4), at the request and for the business purpose of the
30 party seeking the records, but which are not developed or maintained by
31 an agency for its internal use or for the provision of public access to
32 public records.

33 (21) "Expenditure" includes a payment, contribution, subscription,
34 distribution, loan, advance, deposit, or gift of money or anything of
35 value, and includes a contract, promise, or agreement, whether or not
36 legally enforceable, to make an expenditure. The term "expenditure"
37 also includes a promise to pay, a payment, or a transfer of anything of
38 value in exchange for goods, services, property, facilities, or
39 anything of value for the purpose of assisting, benefiting, or honoring

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

8 ~~((+20+))~~ (22) "Final report" means the report described as a final
9 report in RCW 42.17.080(2).

10 ~~((+21+))~~ (23) "General election" means the election that results in
11 the election of a person to a state office. It does not include a
12 primary.

13 ~~((+22+))~~ (24) "Gift," is as defined in RCW 42.52.010.

14 ~~((+23+))~~ (25) "Immediate family" includes the spouse, dependent
15 children, and other dependent relatives, if living in the household.
16 For the purposes of RCW 42.17.640 through 42.17.790, "immediate family"
17 means an individual's spouse, and child, stepchild, grandchild, parent,
18 stepparent, grandparent, brother, half brother, sister, or half sister
19 of the individual and the spouse of any such person and a child,
20 stepchild, grandchild, parent, stepparent, grandparent, brother, half
21 brother, sister, or half sister of the individual's spouse and the
22 spouse of any such person.

23 ~~((+24+))~~ (26) "Independent expenditure" means an expenditure that
24 has each of the following elements:

25 (a) It is made in support of or in opposition to a candidate for
26 office by a person who is not (i) a candidate for that office, (ii) an
27 authorized committee of that candidate for that office, (iii) a person
28 who has received the candidate's encouragement or approval to make the
29 expenditure, if the expenditure pays in whole or in part for political
30 advertising supporting that candidate or promoting the defeat of any
31 other candidate or candidates for that office, or (iv) a person with
32 whom the candidate has collaborated for the purpose of making the
33 expenditure, if the expenditure pays in whole or in part for political
34 advertising supporting that candidate or promoting the defeat of any
35 other candidate or candidates for that office;

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

1 (c) The expenditure, alone or in conjunction with another
2 expenditure or other expenditures of the same person in support of or
3 opposition to that candidate, has a value of five hundred dollars or
4 more. A series of expenditures, each of which is under five hundred
5 dollars, constitutes one independent expenditure if their cumulative
6 value is five hundred dollars or more.

7 (~~(25)~~) (27)(a) "Intermediary" means an individual who transmits
8 a contribution to a candidate or committee from another person unless
9 the contribution is from the individual's employer, immediate family as
10 defined for purposes of RCW 42.17.640 through 42.17.790, or an
11 association to which the individual belongs.

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

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

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

19 (~~(26)~~) (28) "Legislation" means bills, resolutions, motions,
20 amendments, nominations, and other matters pending or proposed in
21 either house of the state legislature, and includes any other matter
22 that may be the subject of action by either house or any committee of
23 the legislature and all bills and resolutions that, having passed both
24 houses, are pending approval by the governor.

25 (~~(27)~~) (29) "Lobby" and "lobbying" each mean attempting to
26 influence the passage or defeat of any legislation by the legislature
27 of the state of Washington, or the adoption or rejection of any rule,
28 standard, rate, or other legislative enactment of any state agency
29 under the state Administrative Procedure Act, chapter 34.05 RCW.
30 Neither "lobby" nor "lobbying" includes an association's or other
31 organization's act of communicating with the members of that
32 association or organization.

33 (~~(28)~~) (30) "Lobbyist" includes any person who lobbies either in
34 his or her own or another's behalf.

35 (~~(29)~~) (31) "Lobbyist's employer" means the person or persons by
36 whom a lobbyist is employed and all persons by whom he or she is
37 compensated for acting as a lobbyist.

38 (~~(30)~~) (32) "Person" includes an individual, partnership, joint
39 venture, public or private corporation, association, federal, state, or

1 local governmental entity or agency however constituted, candidate,
2 committee, political committee, political party, executive committee
3 thereof, or any other organization or group of persons, however
4 organized.

5 ~~((31))~~ (33) "Person in interest" means the person who is the
6 subject of a record or any representative designated by that person,
7 except that if that person is under a legal disability, the term
8 "person in interest" means and includes the parent or duly appointed
9 legal representative.

10 ~~((32))~~ (34) "Personally identifiable information" means
11 information disclosed by an individual as a prerequisite to the receipt
12 of a license, approval, award, product, or service from a government
13 agency, which may include name, address, telephone number, social
14 security number, photographs, fingerprints, or computerized images
15 thereof.

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

22 ~~((33))~~ (36) "Political committee" means any person (except a
23 candidate or an individual dealing with his or her own funds or
24 property) having the expectation of receiving contributions or making
25 expenditures in support of, or opposition to, any candidate or any
26 ballot proposition.

27 ~~((34))~~ (37) "Primary" means the procedure for nominating a
28 candidate to state office under chapter 29.18 or 29.21 RCW or any other
29 primary for an election that uses, in large measure, the procedures
30 established in chapter 29.18 or 29.21 RCW.

31 ~~((35))~~ (38) "Public office" means any federal, state, county,
32 city, town, school district, port district, special district, or other
33 state political subdivision elective office.

34 ~~((36))~~ (39) "Public record" includes any writing containing
35 information relating to the conduct of government or the performance of
36 any governmental or proprietary function prepared, owned, used, or
37 retained by any state or local agency regardless of physical form or
38 characteristics. For the office of the secretary of the senate and the
39 office of the chief clerk of the house of representatives, public

1 records means legislative records as defined in RCW 40.14.100 and also
2 means the following: All budget and financial records; personnel
3 leave, travel, and payroll records; records of legislative sessions;
4 reports submitted to the legislature; and any other record designated
5 a public record by any official action of the senate or the house of
6 representatives.

7 ~~((+37+))~~ (40) "Recall campaign" means the period of time beginning
8 on the date of the filing of recall charges under RCW 29.82.015 and
9 ending thirty days after the recall election.

10 ~~((+38+))~~ (41) "State legislative office" means the office of a
11 member of the state house of representatives or the office of a member
12 of the state senate.

13 ~~((+39+))~~ (42) "State office" means state legislative office or the
14 office of governor, lieutenant governor, secretary of state, attorney
15 general, commissioner of public lands, insurance commissioner,
16 superintendent of public instruction, state auditor, or state
17 treasurer.

18 ~~((+40+))~~ (43) "State official" means a person who holds a state
19 office.

20 ~~((+41+))~~ (44) "Surplus funds" mean, in the case of a political
21 committee or candidate, the balance of contributions that remain in the
22 possession or control of that committee or candidate subsequent to the
23 election for which the contributions were received, and that are in
24 excess of the amount necessary to pay remaining debts incurred by the
25 committee or candidate prior to that election. In the case of a
26 continuing political committee, "surplus funds" mean those
27 contributions remaining in the possession or control of the committee
28 that are in excess of the amount necessary to pay all remaining debts
29 when it makes its final report under RCW 42.17.065.

30 ~~((+42+))~~ (45) "Writing" means handwriting, typewriting, printing,
31 photostating, photographing, and every other means of recording any
32 form of communication or representation, including, but not limited to,
33 letters, words, pictures, sounds, or symbols, or combination thereof,
34 and all papers, maps, magnetic or paper tapes, photographic films and
35 prints, motion picture, film and video recordings, magnetic or punched
36 cards, discs, drums, diskettes, sound recordings, and other documents
37 including existing data compilations from which information may be
38 obtained or translated.

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

3 **Sec. 3.** RCW 42.17.260 and 1995 c 397 s 11 and 1995 c 341 s 1 are
4 each reenacted and amended to read as follows:

5 (1) Each agency, in accordance with published rules, shall make
6 available for public inspection and copying all public records, unless
7 the record falls within the specific exemptions of subsection (6) of
8 this section, RCW 42.17.310, 42.17.315, or other statute which exempts
9 or prohibits disclosure of specific information or records. To the
10 extent required to prevent an unreasonable invasion of personal privacy
11 interests protected by RCW 42.17.310 and 42.17.315, an agency shall
12 delete identifying details in a manner consistent with RCW 42.17.310
13 and 42.17.315 when it makes available or publishes any public record;
14 however, in each case, the justification for the deletion shall be
15 explained fully in writing.

16 (2) For informational purposes, each agency shall publish and
17 maintain a current list containing every law, other than those listed
18 in this chapter, that the agency believes exempts or prohibits
19 disclosure of specific information or records of the agency. An
20 agency's failure to list an exemption shall not affect the efficacy of
21 any exemption.

22 (3) Each local agency shall maintain and make available for public
23 inspection and copying a current index providing identifying
24 information as to the following records issued, adopted, or promulgated
25 after January 1, 1973:

26 (a) Final opinions, including concurring and dissenting opinions,
27 as well as orders, made in the adjudication of cases;

28 (b) Those statements of policy and interpretations of policy,
29 statute, and the Constitution which have been adopted by the agency;

30 (c) Administrative staff manuals and instructions to staff that
31 affect a member of the public;

32 (d) Planning policies and goals, and interim and final planning
33 decisions;

34 (e) Factual staff reports and studies, factual consultant's reports
35 and studies, scientific reports and studies, and any other factual
36 information derived from tests, studies, reports, or surveys, whether
37 conducted by public employees or others; and

1 (f) Correspondence, and materials referred to therein, by and with
2 the agency relating to any regulatory, supervisory, or enforcement
3 responsibilities of the agency, whereby the agency determines, or
4 opines upon, or is asked to determine or opine upon, the rights of the
5 state, the public, a subdivision of state government, or of any private
6 party.

7 (4) A local agency need not maintain such an index, if to do so
8 would be unduly burdensome, but it shall in that event:

9 (a) Issue and publish a formal order specifying the reasons why and
10 the extent to which compliance would unduly burden or interfere with
11 agency operations; and

12 (b) Make available for public inspection and copying all indexes
13 maintained for agency use.

14 (5) Each state agency shall, by rule, establish and implement a
15 system of indexing for the identification and location of the following
16 records:

17 (a) All records issued before July 1, 1990, for which the agency
18 has maintained an index;

19 (b) Final orders entered after June 30, 1990, that are issued in
20 adjudicative proceedings as defined in RCW 34.05.010(1) and that
21 contain an analysis or decision of substantial importance to the agency
22 in carrying out its duties;

23 (c) Declaratory orders entered after June 30, 1990, that are issued
24 pursuant to RCW 34.05.240 and that contain an analysis or decision of
25 substantial importance to the agency in carrying out its duties;

26 (d) Interpretive statements as defined in RCW 34.05.010(8) that
27 were entered after June 30, 1990; and

28 (e) Policy statements as defined in RCW 34.05.010(14) that were
29 entered after June 30, 1990.

30 Rules establishing systems of indexing shall include, but not be
31 limited to, requirements for the form and content of the index, its
32 location and availability to the public, and the schedule for revising
33 or updating the index. State agencies that have maintained indexes for
34 records issued before July 1, 1990, shall continue to make such indexes
35 available for public inspection and copying. Information in such
36 indexes may be incorporated into indexes prepared pursuant to this
37 subsection. State agencies may satisfy the requirements of this
38 subsection by making available to the public indexes prepared by other
39 parties but actually used by the agency in its operations. State

1 agencies shall make indexes available for public inspection and
2 copying. State agencies may charge a fee to cover the actual costs of
3 providing individual mailed copies of indexes.

4 (6) A public record may be relied on, used, or cited as precedent
5 by an agency against a party other than an agency and it may be invoked
6 by the agency for any other purpose only if(~~(←)~~):

7 (a) It has been indexed in an index available to the public; or

8 (b) Parties affected have timely notice (actual or constructive) of
9 the terms thereof.

10 (7) Each agency shall establish, maintain, and make available for
11 public inspection and copying a statement of the actual per page cost
12 or other costs, if any, that it charges for providing photocopies of
13 public records and a statement of the factors and manner used to
14 determine the actual per page cost or other costs, if any.

15 (a) In determining the actual per page cost for providing
16 photocopies of public records, an agency may include all costs directly
17 incident to copying such public records including the actual cost of
18 the paper and the per page cost for use of agency copying equipment.
19 In determining other actual costs for providing photocopies of public
20 records, an agency may include all costs directly incident to shipping
21 such public records, including the cost of postage or delivery charges
22 and the cost of any container or envelope used.

23 (b) In determining the actual per page cost or other costs for
24 providing copies of public records, an agency may not include staff
25 salaries, benefits, or other general administrative or overhead
26 charges, unless those costs are directly related to the actual cost of
27 copying the public records. Staff time to copy and mail the requested
28 public records may be included in an agency's costs.

29 (8) An agency need not calculate the actual per page cost or other
30 costs it charges for providing photocopies of public records if to do
31 so would be unduly burdensome, but in that event: The agency may not
32 charge in excess of fifteen cents per page for photocopies of public
33 records or for the use of agency equipment to photocopy public records
34 and the actual postage or delivery charge and the cost of any container
35 or envelope used to mail the public records to the requestor.

36 (9) This chapter shall not be construed as giving authority to any
37 agency, the office of the secretary of the senate, or the office of the
38 chief clerk of the house of representatives to give, sell or provide
39 access to lists of individuals requested for commercial purposes, and

1 agencies, the office of the secretary of the senate, and the office of
2 the chief clerk of the house of representatives shall not do so unless
3 specifically authorized or directed by law: PROVIDED, HOWEVER, That
4 lists of applicants for professional licenses and of professional
5 licensees shall be made available to those professional associations or
6 educational organizations recognized by their professional licensing or
7 examination board, upon payment of a reasonable charge (~~therefor~~),
8 and comply with the provisions of RCW 42.17.300 (3) and (4): PROVIDED
9 FURTHER, That such recognition may be refused only for a good cause
10 pursuant to a hearing under the provisions of chapter 34.05 RCW, the
11 Administrative Procedure Act.

12 **Sec. 4.** RCW 42.17.300 and 1995 c 397 s 14 and 1995 c 341 s 2 are
13 each reenacted and amended to read as follows:

14 (1) No fee shall be charged for the inspection of public records.
15 No fee shall be charged for locating public documents and making them
16 available for copying. A reasonable charge may be imposed for
17 providing copies of public records and for the use by any person of
18 agency equipment or equipment of the office of the secretary of the
19 senate or the office of the chief clerk of the house of representatives
20 to copy public records, which charges shall not exceed the amount
21 necessary to reimburse the agency, the office of the secretary of the
22 senate, or the office of the chief clerk of the house of
23 representatives for its actual costs directly incident to such copying.
24 Agency charges for photocopies shall be imposed in accordance with the
25 actual per page cost or other costs established and published by the
26 agency. In no event may an agency charge a per page cost greater than
27 the actual per page cost as established and published by the agency.
28 To the extent the agency has not determined the actual per page cost
29 for photocopies of public records, the agency may not charge in excess
30 of fifteen cents per page.

31 (2) An agency may provide information for business use, for which
32 disclosure is permitted by law, in a particular form, number, or means
33 of access as requested, and if the information is not otherwise
34 maintained or accessible by the agency in that form, may establish
35 rates by contract unless otherwise provided by law. Agencies shall
36 base fees on the recovery of the actual cost of providing enhanced
37 electronic access for business purposes. The revenue from enhanced
38 electronic access for business use must be dedicated to the

1 development, maintenance, and refurbishment of electronic information
2 systems and the support of electronic public access systems.

3 (3) All state agencies, unless otherwise directed, specified, or
4 prohibited by this chapter or other state statutes, shall allow
5 otherwise appropriate access to public records for business purposes
6 only through means of a contractual agreement between the agency and
7 the entity requesting the access, hereinafter referred to as the
8 contractor.

9 (4) The agreements for access to public records for business
10 purposes shall require, at a minimum, the following limitations,
11 provided in this section as a general guide to be specifically crafted
12 by each agency as necessary and appropriate for individual legal and
13 contractual requirements:

14 (a) The contractor shall use the information provided by the agency
15 only in connection with the use for which the information was initially
16 sought by the contractor and approved by the agency;

17 (b) The contractor agrees to protect the confidentiality of the
18 information to which access has been provided under the agreement;

19 (c) The contractor, or any employee or agent of the contractor,
20 shall not furnish in any form, to any person, corporation, partnership,
21 association, or organization, a copy of any information, in whole or in
22 part, provided by the agency, without the express written consent of
23 the agency for the provision of the information for a purpose;

24 (d) The contractor shall adhere to any current or subsequently
25 amended statutory or administrative rules regulating privacy or
26 confidentiality relating to the information provided by the agency;

27 (e) Any exceptions, revisions, or waivers to these limitations
28 requested by the contractor must be approved in writing by the agency
29 and received by the contractor prior to the requested use of the
30 information which is otherwise limited;

31 (f) No name or address of any individual furnished by the agency to
32 the contractor shall be published or otherwise disclosed by the
33 contractor in any manner not otherwise approved by the agency;

34 (g) The contractor, or any officer, employee, or agent of the
35 contractor, shall not furnish in any form, to any person, corporation,
36 partnership, association, or organization, any of the individual's
37 personally identifiable information provided by the agency under the
38 agreement for the purpose of making unsolicited commercial contact with

1 the individuals named or otherwise identified, unless specifically
2 approved, in writing, by the agency;

3 (h) The contractor agrees that the agency may provide "control" or
4 "salted" data as a portion of provided information as a means to ensure
5 that any personally identifiable information is utilized only for the
6 specific purposes allowed under the terms of the agreement;

7 (i) The contractor shall not gain any proprietary right to or
8 interest in any information provided by the agency and shall not assign
9 their interest in the agreement or any portion thereof to any person,
10 corporation, partnership, association, or organization of any kind;

11 (j) The contractor accepts full responsibility and liability for
12 any violations of the agreement by the contractor or any officer,
13 employee, or agent of the contractor and any such violation shall
14 result in immediate termination by the agency of all information
15 provision to the contractor or any officer, employee, or agent of the
16 contractor in any form and immediate forfeiture to the agency of any
17 agency provided information, in any form, held by the contractor or any
18 officer, employee, or agent of the contractor; and

19 (k) The agency reserves additional unrestricted financial remedies,
20 on a per-record basis, for any violation of the agreement by the
21 contractor or any officer, employee, or agent of the contractor, in
22 addition to any penalty allowed under state law.

23 **Sec. 5.** RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996
24 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as
25 follows:

26 (1) The following are exempt from public inspection and copying:

27 (a) Personal information in any files maintained for students in
28 public schools, patients or clients of public institutions or public
29 health agencies, or welfare recipients.

30 (b) Personal information in files maintained for employees,
31 appointees, or elected officials of any public agency to the extent
32 that disclosure would violate their right to privacy.

33 (c) Information required of any taxpayer in connection with the
34 assessment or collection of any tax if the disclosure of the
35 information to other persons would (i) be prohibited to such persons by
36 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
37 in unfair competitive disadvantage to the taxpayer.

1 (d) Specific intelligence information and specific investigative
2 records compiled by investigative, law enforcement, and penology
3 agencies, and state agencies vested with the responsibility to
4 discipline members of any profession, the nondisclosure of which is
5 essential to effective law enforcement or for the protection of any
6 person's right to privacy.

7 (e) Information revealing the identity of persons who are witnesses
8 to or victims of crime or who file complaints with investigative, law
9 enforcement, or penology agencies, other than the public disclosure
10 commission, if disclosure would endanger any person's life, physical
11 safety, or property. If at the time a complaint is filed the
12 complainant, victim or witness indicates a desire for disclosure or
13 nondisclosure, such desire shall govern. However, all complaints filed
14 with the public disclosure commission about any elected official or
15 candidate for public office must be made in writing and signed by the
16 complainant under oath.

17 (f) Test questions, scoring keys, and other examination data used
18 to administer a license, employment, or academic examination.

19 (g) Except as provided by chapter 8.26 RCW, the contents of real
20 estate appraisals, made for or by any agency relative to the
21 acquisition or sale of property, until the project or prospective sale
22 is abandoned or until such time as all of the property has been
23 acquired or the property to which the sale appraisal relates is sold,
24 but in no event shall disclosure be denied for more than three years
25 after the appraisal.

26 (h) Valuable formulae, designs, drawings, and research data
27 obtained by any agency within five years of the request for disclosure
28 when disclosure would produce private gain and public loss.

29 (i) Preliminary drafts, notes, recommendations, and intra-agency
30 memorandums in which opinions are expressed or policies formulated or
31 recommended except that a specific record shall not be exempt when
32 publicly cited by an agency in connection with any agency action.

33 (j) Records which are relevant to a controversy to which an agency
34 is a party but which records would not be available to another party
35 under the rules of pretrial discovery for causes pending in the
36 superior courts.

37 (k) Records, maps, or other information identifying the location of
38 archaeological sites in order to avoid the looting or depredation of
39 such sites.

1 (l) Any library record, the primary purpose of which is to maintain
2 control of library materials, or to gain access to information, which
3 discloses or could be used to disclose the identity of a library user.

4 (m) Financial information supplied by or on behalf of a person,
5 firm, or corporation for the purpose of qualifying to submit a bid or
6 proposal for (i) a ferry system construction or repair contract as
7 required by RCW 47.60.680 through 47.60.750 or (ii) highway
8 construction or improvement as required by RCW 47.28.070.

9 (n) Railroad company contracts filed prior to July 28, 1991, with
10 the utilities and transportation commission under RCW 81.34.070, except
11 that the summaries of the contracts are open to public inspection and
12 copying as otherwise provided by this chapter.

13 (o) Financial and commercial information and records supplied by
14 private persons pertaining to export services provided pursuant to
15 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
16 export projects pursuant to RCW 43.23.035.

17 (p) Financial disclosures filed by private vocational schools under
18 chapters 28B.85 and 28C.10 RCW.

19 (q) Records filed with the utilities and transportation commission
20 or attorney general under RCW 80.04.095 that a court has determined are
21 confidential under RCW 80.04.095.

22 (r) Financial and commercial information and records supplied by
23 businesses or individuals during application for loans or program
24 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
25 or during application for economic development loans or program
26 services provided by any local agency.

27 (s) Membership lists or lists of members or owners of interests of
28 units in timeshare projects, subdivisions, camping resorts,
29 condominiums, land developments, or common-interest communities
30 affiliated with such projects, regulated by the department of
31 licensing, in the files or possession of the department.

32 (t) All applications for public employment, including the names of
33 applicants, resumes, and other related materials submitted with respect
34 to an applicant.

35 (u) The residential addresses and residential telephone numbers of
36 employees or volunteers of a public agency which are held by the agency
37 in personnel records, employment or volunteer rosters, or mailing lists
38 of employees or volunteers.

1 (v) The residential addresses and residential telephone numbers of
2 the customers of a public utility contained in the records or lists
3 held by the public utility of which they are customers.

4 (w)(i) The federal social security number of individuals governed
5 under chapter 18.130 RCW maintained in the files of the department of
6 health, except this exemption does not apply to requests made directly
7 to the department from federal, state, and local agencies of
8 government, and national and state licensing, credentialing,
9 investigatory, disciplinary, and examination organizations; (ii) the
10 current residential address and current residential telephone number of
11 a health care provider governed under chapter 18.130 RCW maintained in
12 the files of the department, if the provider requests that this
13 information be withheld from public inspection and copying, and
14 provides to the department an accurate alternate or business address
15 and business telephone number. On or after January 1, 1995, the
16 current residential address and residential telephone number of a
17 health care provider governed under RCW 18.130.140 maintained in the
18 files of the department shall automatically be withheld from public
19 inspection and copying unless the provider specifically requests the
20 information be released, and except as provided for under RCW
21 42.17.260(9).

22 (x) Information obtained by the board of pharmacy as provided in
23 RCW 69.45.090.

24 (y) Information obtained by the board of pharmacy or the department
25 of health and its representatives as provided in RCW 69.41.044,
26 69.41.280, and 18.64.420.

27 (z) Financial information, business plans, examination reports, and
28 any information produced or obtained in evaluating or examining a
29 business and industrial development corporation organized or seeking
30 certification under chapter 31.24 RCW.

31 (aa) Financial and commercial information supplied to the state
32 investment board by any person when the information relates to the
33 investment of public trust or retirement funds and when disclosure
34 would result in loss to such funds or in private loss to the providers
35 of this information.

36 (bb) Financial and valuable trade information under RCW 51.36.120.

37 (cc) Client records maintained by an agency that is a domestic
38 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
39 crisis center as defined in RCW 70.125.030.

1 (dd) Information that identifies a person who, while an agency
2 employee: (i) Seeks advice, under an informal process established by
3 the employing agency, in order to ascertain his or her rights in
4 connection with a possible unfair practice under chapter 49.60 RCW
5 against the person; and (ii) requests his or her identity or any
6 identifying information not be disclosed.

7 (ee) Investigative records compiled by an employing agency
8 conducting a current investigation of a possible unfair practice under
9 chapter 49.60 RCW or of a possible violation of other federal, state,
10 or local laws prohibiting discrimination in employment.

11 (ff) Business related information protected from public inspection
12 and copying under RCW 15.86.110.

13 (gg) Financial, commercial, operations, and technical and research
14 information and data submitted to or obtained by the clean Washington
15 center in applications for, or delivery of, program services under
16 chapter 70.95H RCW.

17 (hh) Information and documents created specifically for, and
18 collected and maintained by a quality improvement committee pursuant to
19 RCW 43.70.510, regardless of which agency is in possession of the
20 information and documents.

21 (ii) Personal information in files maintained in a data base
22 created under RCW 43.07.360.

23 (jj) Computer programs and software developed by agencies alone or
24 in partnership with other public and private entities. For the
25 purposes of this chapter, software is the programming source codes or
26 object codes developed by an agency or developed by a private
27 contractor for an agency. However, information contained in or
28 accessible through those computer programs and software that is
29 disclosable under state law is not exempt from disclosure under this
30 chapter.

31 (2) Except for information described in subsection (1)(c)(i) of
32 this section and confidential income data exempted from public
33 inspection pursuant to RCW 84.40.020, the exemptions of this section
34 are inapplicable to the extent that information, the disclosure of
35 which would violate personal privacy or vital governmental interests,
36 can be deleted from the specific records sought. No exemption may be
37 construed to permit the nondisclosure of statistical information not
38 descriptive of any readily identifiable person or persons.

1 (3) Inspection or copying of any specific records exempt under the
2 provisions of this section may be permitted if the superior court in
3 the county in which the record is maintained finds, after a hearing
4 with notice thereof to every person in interest and the agency, that
5 the exemption of such records is clearly unnecessary to protect any
6 individual's right of privacy or any vital governmental function.

7 (4) Agency responses refusing, in whole or in part, inspection of
8 any public record shall include a statement of the specific exemption
9 authorizing the withholding of the record (or part) and a brief
10 explanation of how the exemption applies to the record withheld.

11 **Sec. 6.** RCW 43.105.310 and 1996 c 171 s 15 are each amended to
12 read as follows:

13 (1) State agencies and local governments that collect and enter
14 information concerning individuals into electronic records and
15 information systems that will be widely accessible by the public under
16 RCW 42.17.020 shall ensure the accuracy of this information to the
17 extent possible. To the extent possible, information must be collected
18 directly from, and with the consent of, the individual who is the
19 subject of the data. Agencies shall establish procedures for
20 correcting inaccurate information, including establishing mechanisms
21 for individuals to review information about themselves and recommend
22 changes in information they believe to be inaccurate. The inclusion of
23 personal information in electronic public records that is widely
24 available to the public should include information on the date when the
25 data base was created or most recently updated. If personally
26 identifiable information is included in electronic public records that
27 are made widely available to the public, agencies must follow retention
28 and archival schedules in accordance with chapter 40.14 RCW, retaining
29 personally identifiable information only as long as needed to carry out
30 the purpose for which it was collected.

31 (2) Personally identifiable information submitted to a government
32 agency by a person shall be used by that agency for the purpose for
33 which it was submitted. However, the information may be disclosed to
34 any other government agency, including any court or law enforcement
35 agency, in carrying out its functions, or to any authorized agent
36 acting on behalf of a state, federal, or local agency in carrying out
37 its functions. Further, the information may be disclosed for business
38 use and for any purpose otherwise provided by law.

1 (3) State agencies and local governments that collect personally
2 identifiable information that is subject to disclosure under chapter
3 42.17 RCW or other law shall, to the extent practicable, post or
4 publish public notice that the information gathered may be disclosable
5 as a public record. The agency-specific public notice will reflect the
6 common uses of such records. Upon request, state agencies and local
7 governments shall provide a written statement regarding the
8 circumstances under which specific personally identifiable information
9 may be disclosed to the public or for business purposes."

10 **HB 1891** - H AMD
11 By Representative Dyer

12

13 On page 1, line 2 of the title, after "form;" strike the remainder
14 of the title and insert "amending RCW 42.17.020 and 43.105.310;
15 reenacting and amending RCW 42.17.260, 42.17.300, and 42.17.310; and
16 creating a new section."

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