

2SHB 1758 - S COMM AMD

By Committee on Government Operations & Elections

ADOPTED AS AMENDED 04/11/2005

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

3 "NEW SECTION. **Sec. 1.** It is and has been the intent of the
4 legislature that information regarding sex offenders be shared between
5 state agencies and with local law enforcement, and that public
6 disclosure of sex offender information that is accurate, relevant, and
7 necessary to protect the public be managed by and controlled through
8 the community notification statute, RCW 4.24.550. The legislature
9 finds that law enforcement has been, and continues to be, the most
10 reliable means of ensuring that the information released protects the
11 public, protects the confidentiality of victims, protects ongoing
12 criminal investigations, and complies with the confidentiality
13 provisions of other federal and state laws. The legislature further
14 finds that the criminal records privacy act and other statutes
15 reference RCW 4.24.550 as the disclosure provision for sex offender
16 information.

17 The legislature finds that to accomplish its penological duties,
18 the department of corrections must receive and use protected
19 information to appropriately confine, supervise, treat, and assess the
20 risk of offenders. To further this intent, the legislature has
21 authorized the end of sentence review committee to access and consider
22 information that otherwise may be confidential for the specific reason
23 of determining if the offender should be referred for civil commitment
24 as a sexually violent predator under chapter 71.09 RCW. The
25 legislature further finds that it is appropriate for the department to
26 share information, beyond what is publicly disclosable, with law
27 enforcement agencies for the appropriate supervision of offenders in
28 the community or for the investigation of criminal acts. The
29 legislature does not intend that law enforcement bulletins or notes,
30 comments, and assessments of the end of sentence review committee to

1 assess the risk, or plan the transition of sex offenders to the
2 community, be available for public inspection through public disclosure
3 due to the risk that providing the information in such a manner would
4 pose to the state's community notification program and the risk that
5 the information would unnecessarily traumatize the victims of the
6 offenders' previous offenses.

7 **Sec. 2.** RCW 42.17.270 and 1987 c 403 s 4 are each amended to read
8 as follows:

9 Public records shall be available for inspection and copying, and
10 agencies shall, upon request for identifiable public records, make them
11 promptly available to any person including, if applicable, on a partial
12 or installment basis as records that are part of a larger set of
13 requested records are assembled or made ready for inspection or
14 disclosure. Agencies shall not deny a request for identifiable public
15 records solely on the basis that the request is overbroad. Agencies
16 shall not distinguish among persons requesting records, and such
17 persons shall not be required to provide information as to the purpose
18 for the request except to establish whether inspection and copying
19 would violate RCW 42.17.260(~~(+5)~~) (9) or other statute which exempts
20 or prohibits disclosure of specific information or records to certain
21 persons. Agency facilities shall be made available to any person for
22 the copying of public records except when and to the extent that this
23 would unreasonably disrupt the operations of the agency. Agencies
24 shall honor requests received by mail for identifiable public records
25 unless exempted by provisions of this chapter.

26 **Sec. 3.** RCW 42.17.300 and 1995 c 397 s 14 and 1995 c 341 s 2 are
27 each reenacted and amended to read as follows:

28 No fee shall be charged for the inspection of public records. No
29 fee shall be charged for locating public documents and making them
30 available for copying. A reasonable charge may be imposed for
31 providing copies of public records and for the use by any person of
32 agency equipment or equipment of the office of the secretary of the
33 senate or the office of the chief clerk of the house of representatives
34 to copy public records, which charges shall not exceed the amount
35 necessary to reimburse the agency, the office of the secretary of the
36 senate, or the office of the chief clerk of the house of

1 representatives for its actual costs directly incident to such copying.
2 Agency charges for photocopies shall be imposed in accordance with the
3 actual per page cost or other costs established and published by the
4 agency. In no event may an agency charge a per page cost greater than
5 the actual per page cost as established and published by the agency.
6 To the extent the agency has not determined the actual per page cost
7 for photocopies of public records, the agency may not charge in excess
8 of fifteen cents per page. An agency may require a deposit in an
9 amount not to exceed ten percent of the estimated cost of providing
10 copies for a request. If an agency makes a request available on a
11 partial or installment basis, the agency may charge for each part of
12 the request as it is provided. If an installment of a records request
13 is not claimed or reviewed, the agency is not obligated to fulfill the
14 balance of the request.

15 **Sec. 4.** RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277 s
16 3, and 2003 c 124 s 1 are each reenacted and amended to read as
17 follows:

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

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

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

25 (c) Information required of any taxpayer in connection with the
26 assessment or collection of any tax if the disclosure of the
27 information to other persons would (i) be prohibited to such persons by
28 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
29 taxpayer's right to privacy or result in unfair competitive
30 disadvantage to the taxpayer.

31 (d) Specific intelligence information and specific investigative
32 records compiled by investigative, law enforcement, and penology
33 agencies, and state agencies vested with the responsibility to
34 discipline members of any profession, the nondisclosure of which is
35 essential to effective law enforcement or for the protection of any
36 person's right to privacy.

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

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

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

20 (h) Valuable formulae, designs, drawings, computer source code or
21 object code, and research data obtained by any agency within five years
22 of the request for disclosure when disclosure would produce private
23 gain and public loss.

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

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

32 (k) Records, maps, or other information identifying the location of
33 archaeological sites in order to avoid the looting or depredation of
34 such sites.

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

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

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

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

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

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

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

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

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

32 (u) The residential addresses or residential telephone numbers of
33 employees or volunteers of a public agency which are held by any public
34 agency in personnel records, public employment related records, or
35 volunteer rosters, or are included in any mailing list of employees or
36 volunteers of any public agency.

37 (v) The residential addresses and residential telephone numbers of
38 the customers of a public utility contained in the records or lists

1 held by the public utility of which they are customers, except that
2 this information may be released to the division of child support or
3 the agency or firm providing child support enforcement for another
4 state under Title IV-D of the federal social security act, for the
5 establishment, enforcement, or modification of a support order.

6 (w)(i) The federal social security number of individuals governed
7 under chapter 18.130 RCW maintained in the files of the department of
8 health, except this exemption does not apply to requests made directly
9 to the department from federal, state, and local agencies of
10 government, and national and state licensing, credentialing,
11 investigatory, disciplinary, and examination organizations; (ii) the
12 current residential address and current residential telephone number of
13 a health care provider governed under chapter 18.130 RCW maintained in
14 the files of the department, if the provider requests that this
15 information be withheld from public inspection and copying, and
16 provides to the department an accurate alternate or business address
17 and business telephone number. On or after January 1, 1995, the
18 current residential address and residential telephone number of a
19 health care provider governed under RCW 18.130.040 maintained in the
20 files of the department shall automatically be withheld from public
21 inspection and copying unless the provider specifically requests the
22 information be released, and except as provided for under RCW
23 42.17.260(9).

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

26 (y) Information obtained by the board of pharmacy or the department
27 of health and its representatives as provided in RCW 69.41.044,
28 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

20 (hh) Information and documents created specifically for, and
21 collected and maintained by a quality improvement committee pursuant to
22 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
23 4.24.250, regardless of which agency is in possession of the
24 information and documents.

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

27 (jj) Financial and commercial information requested by the public
28 stadium authority from any person or organization that leases or uses
29 the stadium and exhibition center as defined in RCW 36.102.010.

30 (kk) Names of individuals residing in emergency or transitional
31 housing that are furnished to the department of revenue or a county
32 assessor in order to substantiate a claim for property tax exemption
33 under RCW 84.36.043.

34 (ll) The names, residential addresses, residential telephone
35 numbers, and other individually identifiable records held by an agency
36 in relation to a vanpool, carpool, or other ride-sharing program or
37 service. However, these records may be disclosed to other persons who

1 apply for ride-matching services and who need that information in order
2 to identify potential riders or drivers with whom to share rides.

3 (mm) The personally identifying information of current or former
4 participants or applicants in a paratransit or other transit service
5 operated for the benefit of persons with disabilities or elderly
6 persons.

7 (nn) The personally identifying information of persons who acquire
8 and use transit passes and other fare payment media including, but not
9 limited to, stored value smart cards and magnetic strip cards, except
10 that an agency may disclose this information to a person, employer,
11 educational institution, or other entity that is responsible, in whole
12 or in part, for payment of the cost of acquiring or using a transit
13 pass or other fare payment media, or to the news media when reporting
14 on public transportation or public safety. This information may also
15 be disclosed at the agency's discretion to governmental agencies or
16 groups concerned with public transportation or public safety.

17 (oo) Proprietary financial and commercial information that the
18 submitting entity, with review by the department of health,
19 specifically identifies at the time it is submitted and that is
20 provided to or obtained by the department of health in connection with
21 an application for, or the supervision of, an antitrust exemption
22 sought by the submitting entity under RCW 43.72.310. If a request for
23 such information is received, the submitting entity must be notified of
24 the request. Within ten business days of receipt of the notice, the
25 submitting entity shall provide a written statement of the continuing
26 need for confidentiality, which shall be provided to the requester.
27 Upon receipt of such notice, the department of health shall continue to
28 treat information designated under this section as exempt from
29 disclosure. If the requester initiates an action to compel disclosure
30 under this chapter, the submitting entity must be joined as a party to
31 demonstrate the continuing need for confidentiality.

32 (pp) Records maintained by the board of industrial insurance
33 appeals that are related to appeals of crime victims' compensation
34 claims filed with the board under RCW 7.68.110.

35 (qq) Financial and commercial information supplied by or on behalf
36 of a person, firm, corporation, or entity under chapter 28B.95 RCW
37 relating to the purchase or sale of tuition units and contracts for the
38 purchase of multiple tuition units.

1 (rr) Any records of investigative reports prepared by any state,
2 county, municipal, or other law enforcement agency pertaining to sex
3 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
4 defined in RCW 71.09.020, which have been transferred to the Washington
5 association of sheriffs and police chiefs for permanent electronic
6 retention and retrieval pursuant to RCW 40.14.070(2)(b).

7 (ss) Credit card numbers, debit card numbers, electronic check
8 numbers, card expiration dates, or bank or other financial account
9 numbers, except when disclosure is expressly required by or governed by
10 other law.

11 (tt) Financial information, including but not limited to account
12 numbers and values, and other identification numbers supplied by or on
13 behalf of a person, firm, corporation, limited liability company,
14 partnership, or other entity related to an application for a liquor
15 license, gambling license, or lottery retail license.

16 (uu) Records maintained by the employment security department and
17 subject to chapter 50.13 RCW if provided to another individual or
18 organization for operational, research, or evaluation purposes.

19 (vv) Individually identifiable information received by the work
20 force training and education coordinating board for research or
21 evaluation purposes.

22 (ww) Those portions of records assembled, prepared, or maintained
23 to prevent, mitigate, or respond to criminal terrorist acts, which are
24 acts that significantly disrupt the conduct of government or of the
25 general civilian population of the state or the United States and that
26 manifest an extreme indifference to human life, the public disclosure
27 of which would have a substantial likelihood of threatening public
28 safety, consisting of:

29 (i) Specific and unique vulnerability assessments or specific and
30 unique response or deployment plans, including compiled underlying data
31 collected in preparation of or essential to the assessments, or to the
32 response or deployment plans; and

33 (ii) Records not subject to public disclosure under federal law
34 that are shared by federal or international agencies, and information
35 prepared from national security briefings provided to state or local
36 government officials related to domestic preparedness for acts of
37 terrorism.

1 (xx) Commercial fishing catch data from logbooks required to be
2 provided to the department of fish and wildlife under RCW 77.12.047,
3 when the data identifies specific catch location, timing, or
4 methodology and the release of which would result in unfair competitive
5 disadvantage to the commercial fisher providing the catch data.
6 However, this information may be released to government agencies
7 concerned with the management of fish and wildlife resources.

8 (yy) Sensitive wildlife data obtained by the department of fish and
9 wildlife. However, sensitive wildlife data may be released to
10 government agencies concerned with the management of fish and wildlife
11 resources. Sensitive wildlife data includes:

12 (i) The nesting sites or specific locations of endangered species
13 designated under RCW 77.12.020, or threatened or sensitive species
14 classified by rule of the department of fish and wildlife;

15 (ii) Radio frequencies used in, or locational data generated by,
16 telemetry studies; or

17 (iii) Other location data that could compromise the viability of a
18 specific fish or wildlife population, and where at least one of the
19 following criteria are met:

20 (A) The species has a known commercial or black market value;

21 (B) There is a history of malicious take of that species; or

22 (C) There is a known demand to visit, take, or disturb, and the
23 species behavior or ecology renders it especially vulnerable or the
24 species has an extremely limited distribution and concentration.

25 (zz) The personally identifying information of persons who acquire
26 recreational licenses under RCW 77.32.010 or commercial licenses under
27 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
28 department, and type of license, endorsement, or tag. However, the
29 department of fish and wildlife may disclose personally identifying
30 information to:

31 (i) Government agencies concerned with the management of fish and
32 wildlife resources;

33 (ii) The department of social and health services, child support
34 division, and to the department of licensing in order to implement RCW
35 77.32.014 and 46.20.291; and

36 (iii) Law enforcement agencies for the purpose of firearm
37 possession enforcement under RCW 9.41.040.

1 (aaa)(i) Discharge papers of a veteran of the armed forces of the
2 United States filed at the office of the county auditor before July 1,
3 2002, that have not been commingled with other recorded documents.
4 These records will be available only to the veteran, the veteran's next
5 of kin, a deceased veteran's properly appointed personal representative
6 or executor, a person holding that veteran's general power of attorney,
7 or to anyone else designated in writing by that veteran to receive the
8 records.

9 (ii) Discharge papers of a veteran of the armed forces of the
10 United States filed at the office of the county auditor before July 1,
11 2002, that have been commingled with other records, if the veteran has
12 recorded a "request for exemption from public disclosure of discharge
13 papers" with the county auditor. If such a request has been recorded,
14 these records may be released only to the veteran filing the papers,
15 the veteran's next of kin, a deceased veteran's properly appointed
16 personal representative or executor, a person holding the veteran's
17 general power of attorney, or anyone else designated in writing by the
18 veteran to receive the records.

19 (iii) Discharge papers of a veteran filed at the office of the
20 county auditor after June 30, 2002, are not public records, but will be
21 available only to the veteran, the veteran's next of kin, a deceased
22 veteran's properly appointed personal representative or executor, a
23 person holding the veteran's general power of attorney, or anyone else
24 designated in writing by the veteran to receive the records.

25 (iv) For the purposes of this subsection (1)(aaa), next of kin of
26 deceased veterans have the same rights to full access to the record.
27 Next of kin are the veteran's widow or widower who has not remarried,
28 son, daughter, father, mother, brother, and sister.

29 (bbb) Those portions of records containing specific and unique
30 vulnerability assessments or specific and unique emergency and escape
31 response plans at a city, county, or state adult or juvenile
32 correctional facility, the public disclosure of which would have a
33 substantial likelihood of threatening the security of a city, county,
34 or state adult or juvenile correctional facility or any individual's
35 safety.

36 (ccc) Information compiled by school districts or schools in the
37 development of their comprehensive safe school plans pursuant to RCW

1 28A.320.125, to the extent that they identify specific vulnerabilities
2 of school districts and each individual school.

3 (ddd) Information regarding the infrastructure and security of
4 computer and telecommunications networks, consisting of security
5 passwords, security access codes and programs, access codes for secure
6 software applications, security and service recovery plans, security
7 risk assessments, and security test results to the extent that they
8 identify specific system vulnerabilities.

9 (eee) Information obtained and exempted or withheld from public
10 inspection by the health care authority under RCW 41.05.026, whether
11 retained by the authority, transferred to another state purchased
12 health care program by the authority, or transferred by the authority
13 to a technical review committee created to facilitate the development,
14 acquisition, or implementation of state purchased health care under
15 chapter 41.05 RCW.

16 (fff) Proprietary data, trade secrets, or other information that
17 relates to: (i) A vendor's unique methods of conducting business; (ii)
18 data unique to the product or services of the vendor; or (iii)
19 determining prices or rates to be charged for services, submitted by
20 any vendor to the department of social and health services for purposes
21 of the development, acquisition, or implementation of state purchased
22 health care as defined in RCW 41.05.011.

23 (ggg) Proprietary information deemed confidential for the purposes
24 of section 923, chapter 26, Laws of 2003 1st sp. sess.

25 (hhh) Records or documents obtained, maintained, or used by an
26 agency with jurisdiction over the release of sex offenders for the
27 purpose of fulfilling the responsibility of the end of sentence review
28 committee, and the requirements under RCW 72.09.345, 71.09.025, and
29 9.95.420 are disclosable only under the community notification
30 provisions of RCW 4.24.550.

31 (iii) Law enforcement bulletins created by the end of sentence
32 review committee or a correctional authority to be provided to law
33 enforcement agencies for the purpose of meeting the requirements of RCW
34 4.24.550.

35 (2) Except for information described in subsection (1)(c)(i) of
36 this section and confidential income data exempted from public
37 inspection pursuant to RCW 84.40.020, the exemptions of this section
38 are inapplicable to the extent that information, the disclosure of

1 which would violate personal privacy or vital governmental interests,
2 can be deleted from the specific records sought. No exemption may be
3 construed to permit the nondisclosure of statistical information not
4 descriptive of any readily identifiable person or persons.

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

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

15 **Sec. 5.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
16 each reenacted and amended to read as follows:

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

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

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

24 (c) Information required of any taxpayer in connection with the
25 assessment or collection of any tax if the disclosure of the
26 information to other persons would (i) be prohibited to such persons by
27 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
28 taxpayer's right to privacy or result in unfair competitive
29 disadvantage to the taxpayer.

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31 records compiled by investigative, law enforcement, and penology
32 agencies, and state agencies vested with the responsibility to
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35 person's right to privacy.

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37 to or victims of crime or who file complaints with investigative, law

1 enforcement, or penology agencies, other than the public disclosure
2 commission, if disclosure would endanger any person's life, physical
3 safety, or property. If at the time a complaint is filed the
4 complainant, victim or witness indicates a desire for disclosure or
5 nondisclosure, such desire shall govern. However, all complaints filed
6 with the public disclosure commission about any elected official or
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8 complainant under oath.

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

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

18 (h) Valuable formulae, designs, drawings, computer source code or
19 object code, and research data obtained by any agency within five years
20 of the request for disclosure when disclosure would produce private
21 gain and public loss.

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23 memorandums in which opinions are expressed or policies formulated or
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31 archaeological sites in order to avoid the looting or depredation of
32 such sites.

33 (l) Any library record, the primary purpose of which is to maintain
34 control of library materials, or to gain access to information, which
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37 firm, or corporation for the purpose of qualifying to submit a bid or

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2 required by RCW 47.60.680 through 47.60.750 or (ii) highway
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5 the utilities and transportation commission under RCW 81.34.070, except
6 that the summaries of the contracts are open to public inspection and
7 copying as otherwise provided by this chapter.

8 (o) Financial and commercial information and records supplied by
9 private persons pertaining to export services provided pursuant to
10 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
11 export projects pursuant to RCW 43.23.035.

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

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

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18 businesses or individuals during application for loans or program
19 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
20 or during application for economic development loans or program
21 services provided by any local agency.

22 (s) Membership lists or lists of members or owners of interests of
23 units in timeshare projects, subdivisions, camping resorts,
24 condominiums, land developments, or common-interest communities
25 affiliated with such projects, regulated by the department of
26 licensing, in the files or possession of the department.

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

30 (u) The residential addresses or residential telephone numbers of
31 employees or volunteers of a public agency which are held by any public
32 agency in personnel records, public employment related records, or
33 volunteer rosters, or are included in any mailing list of employees or
34 volunteers of any public agency.

35 (v) The residential addresses and residential telephone numbers of
36 the customers of a public utility contained in the records or lists
37 held by the public utility of which they are customers, except that
38 this information may be released to the division of child support or

1 the agency or firm providing child support enforcement for another
2 state under Title IV-D of the federal social security act, for the
3 establishment, enforcement, or modification of a support order.

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 18.130.040 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

1 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
2 crisis center as defined in RCW 70.125.030.

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

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

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

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

19 (hh) Information and documents created specifically for, and
20 collected and maintained by a quality improvement committee pursuant to
21 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
22 4.24.250, regardless of which agency is in possession of the
23 information and documents.

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

26 (jj) Financial and commercial information requested by the public
27 stadium authority from any person or organization that leases or uses
28 the stadium and exhibition center as defined in RCW 36.102.010.

29 (kk) Names of individuals residing in emergency or transitional
30 housing that are furnished to the department of revenue or a county
31 assessor in order to substantiate a claim for property tax exemption
32 under RCW 84.36.043.

33 (ll) The names, residential addresses, residential telephone
34 numbers, and other individually identifiable records held by an agency
35 in relation to a vanpool, carpool, or other ride-sharing program or
36 service. However, these records may be disclosed to other persons who
37 apply for ride-matching services and who need that information in order
38 to identify potential riders or drivers with whom to share rides.

1 (mm) The personally identifying information of current or former
2 participants or applicants in a paratransit or other transit service
3 operated for the benefit of persons with disabilities or elderly
4 persons.

5 (nn) The personally identifying information of persons who acquire
6 and use transit passes and other fare payment media including, but not
7 limited to, stored value smart cards and magnetic strip cards, except
8 that an agency may disclose this information to a person, employer,
9 educational institution, or other entity that is responsible, in whole
10 or in part, for payment of the cost of acquiring or using a transit
11 pass or other fare payment media, or to the news media when reporting
12 on public transportation or public safety. This information may also
13 be disclosed at the agency's discretion to governmental agencies or
14 groups concerned with public transportation or public safety.

15 (oo) Proprietary financial and commercial information that the
16 submitting entity, with review by the department of health,
17 specifically identifies at the time it is submitted and that is
18 provided to or obtained by the department of health in connection with
19 an application for, or the supervision of, an antitrust exemption
20 sought by the submitting entity under RCW 43.72.310. If a request for
21 such information is received, the submitting entity must be notified of
22 the request. Within ten business days of receipt of the notice, the
23 submitting entity shall provide a written statement of the continuing
24 need for confidentiality, which shall be provided to the requester.
25 Upon receipt of such notice, the department of health shall continue to
26 treat information designated under this section as exempt from
27 disclosure. If the requester initiates an action to compel disclosure
28 under this chapter, the submitting entity must be joined as a party to
29 demonstrate the continuing need for confidentiality.

30 (pp) Records maintained by the board of industrial insurance
31 appeals that are related to appeals of crime victims' compensation
32 claims filed with the board under RCW 7.68.110.

33 (qq) Financial and commercial information supplied by or on behalf
34 of a person, firm, corporation, or entity under chapter 28B.95 RCW
35 relating to the purchase or sale of tuition units and contracts for the
36 purchase of multiple tuition units.

37 (rr) Any records of investigative reports prepared by any state,
38 county, municipal, or other law enforcement agency pertaining to sex

1 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
2 defined in RCW 71.09.020, which have been transferred to the Washington
3 association of sheriffs and police chiefs for permanent electronic
4 retention and retrieval pursuant to RCW 40.14.070(2)(b).

5 (ss) Credit card numbers, debit card numbers, electronic check
6 numbers, card expiration dates, or bank or other financial account
7 numbers, except when disclosure is expressly required by or governed by
8 other law.

9 (tt) Financial information, including but not limited to account
10 numbers and values, and other identification numbers supplied by or on
11 behalf of a person, firm, corporation, limited liability company,
12 partnership, or other entity related to an application for a liquor
13 license, gambling license, or lottery retail license.

14 (uu) Records maintained by the employment security department and
15 subject to chapter 50.13 RCW if provided to another individual or
16 organization for operational, research, or evaluation purposes.

17 (vv) Individually identifiable information received by the work
18 force training and education coordinating board for research or
19 evaluation purposes.

20 (ww) Those portions of records assembled, prepared, or maintained
21 to prevent, mitigate, or respond to criminal terrorist acts, which are
22 acts that significantly disrupt the conduct of government or of the
23 general civilian population of the state or the United States and that
24 manifest an extreme indifference to human life, the public disclosure
25 of which would have a substantial likelihood of threatening public
26 safety, consisting of:

27 (i) Specific and unique vulnerability assessments or specific and
28 unique response or deployment plans, including compiled underlying data
29 collected in preparation of or essential to the assessments, or to the
30 response or deployment plans; and

31 (ii) Records not subject to public disclosure under federal law
32 that are shared by federal or international agencies, and information
33 prepared from national security briefings provided to state or local
34 government officials related to domestic preparedness for acts of
35 terrorism.

36 (xx) Commercial fishing catch data from logbooks required to be
37 provided to the department of fish and wildlife under RCW 77.12.047,
38 when the data identifies specific catch location, timing, or

1 methodology and the release of which would result in unfair competitive
2 disadvantage to the commercial fisher providing the catch data.
3 However, this information may be released to government agencies
4 concerned with the management of fish and wildlife resources.

5 (yy) Sensitive wildlife data obtained by the department of fish and
6 wildlife. However, sensitive wildlife data may be released to
7 government agencies concerned with the management of fish and wildlife
8 resources. Sensitive wildlife data includes:

9 (i) The nesting sites or specific locations of endangered species
10 designated under RCW 77.12.020, or threatened or sensitive species
11 classified by rule of the department of fish and wildlife;

12 (ii) Radio frequencies used in, or locational data generated by,
13 telemetry studies; or

14 (iii) Other location data that could compromise the viability of a
15 specific fish or wildlife population, and where at least one of the
16 following criteria are met:

17 (A) The species has a known commercial or black market value;

18 (B) There is a history of malicious take of that species; or

19 (C) There is a known demand to visit, take, or disturb, and the
20 species behavior or ecology renders it especially vulnerable or the
21 species has an extremely limited distribution and concentration.

22 (zz) The personally identifying information of persons who acquire
23 recreational licenses under RCW 77.32.010 or commercial licenses under
24 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
25 department, and type of license, endorsement, or tag. However, the
26 department of fish and wildlife may disclose personally identifying
27 information to:

28 (i) Government agencies concerned with the management of fish and
29 wildlife resources;

30 (ii) The department of social and health services, child support
31 division, and to the department of licensing in order to implement RCW
32 77.32.014 and 46.20.291; and

33 (iii) Law enforcement agencies for the purpose of firearm
34 possession enforcement under RCW 9.41.040.

35 (aaa)(i) Discharge papers of a veteran of the armed forces of the
36 United States filed at the office of the county auditor before July 1,
37 2002, that have not been commingled with other recorded documents.
38 These records will be available only to the veteran, the veteran's next

1 of kin, a deceased veteran's properly appointed personal representative
2 or executor, a person holding that veteran's general power of attorney,
3 or to anyone else designated in writing by that veteran to receive the
4 records.

5 (ii) Discharge papers of a veteran of the armed forces of the
6 United States filed at the office of the county auditor before July 1,
7 2002, that have been commingled with other records, if the veteran has
8 recorded a "request for exemption from public disclosure of discharge
9 papers" with the county auditor. If such a request has been recorded,
10 these records may be released only to the veteran filing the papers,
11 the veteran's next of kin, a deceased veteran's properly appointed
12 personal representative or executor, a person holding the veteran's
13 general power of attorney, or anyone else designated in writing by the
14 veteran to receive the records.

15 (iii) Discharge papers of a veteran filed at the office of the
16 county auditor after June 30, 2002, are not public records, but will be
17 available only to the veteran, the veteran's next of kin, a deceased
18 veteran's properly appointed personal representative or executor, a
19 person holding the veteran's general power of attorney, or anyone else
20 designated in writing by the veteran to receive the records.

21 (iv) For the purposes of this subsection (1)(aaa), next of kin of
22 deceased veterans have the same rights to full access to the record.
23 Next of kin are the veteran's widow or widower who has not remarried,
24 son, daughter, father, mother, brother, and sister.

25 (bbb) Those portions of records containing specific and unique
26 vulnerability assessments or specific and unique emergency and escape
27 response plans at a city, county, or state adult or juvenile
28 correctional facility, the public disclosure of which would have a
29 substantial likelihood of threatening the security of a city, county,
30 or state adult or juvenile correctional facility or any individual's
31 safety.

32 (ccc) Information compiled by school districts or schools in the
33 development of their comprehensive safe school plans pursuant to RCW
34 28A.320.125, to the extent that they identify specific vulnerabilities
35 of school districts and each individual school.

36 (ddd) Information regarding the infrastructure and security of
37 computer and telecommunications networks, consisting of security
38 passwords, security access codes and programs, access codes for secure

1 software applications, security and service recovery plans, security
2 risk assessments, and security test results to the extent that they
3 identify specific system vulnerabilities.

4 (eee) Information obtained and exempted or withheld from public
5 inspection by the health care authority under RCW 41.05.026, whether
6 retained by the authority, transferred to another state purchased
7 health care program by the authority, or transferred by the authority
8 to a technical review committee created to facilitate the development,
9 acquisition, or implementation of state purchased health care under
10 chapter 41.05 RCW.

11 (fff) Proprietary data, trade secrets, or other information that
12 relates to: (i) A vendor's unique methods of conducting business; (ii)
13 data unique to the product or services of the vendor; or (iii)
14 determining prices or rates to be charged for services, submitted by
15 any vendor to the department of social and health services for purposes
16 of the development, acquisition, or implementation of state purchased
17 health care as defined in RCW 41.05.011.

18 (ggg) Records or documents obtained, maintained, or used by an
19 agency with jurisdiction over the release of sex offenders for the
20 purpose of fulfilling the responsibility of the end of sentence review
21 committee, and the requirements under RCW 72.09.345, 71.09.025, and
22 9.95.420 are disclosable only under the community notification
23 provisions of RCW 4.24.550.

24 (hhh) Law enforcement bulletins created by the end of sentence
25 review committee or a correctional authority to be provided to law
26 enforcement agencies for the purpose of meeting the requirements of RCW
27 4.24.550.

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

36 (3) Inspection or copying of any specific records exempt under the
37 provisions of this section may be permitted if the superior court in
38 the county in which the record is maintained finds, after a hearing

1 with notice thereof to every person in interest and the agency, that
2 the exemption of such records is clearly unnecessary to protect any
3 individual's right of privacy or any vital governmental function.

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

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.17 RCW
9 to read as follows:

10 (1) Each state and local agency shall appoint and publicly identify
11 a public records officer whose responsibility is to serve as a point of
12 contact for members of the public in requesting disclosure of public
13 records and to oversee the agency's compliance with the public records
14 disclosure requirements of this chapter. A state or local agency's
15 public records officer may appoint an employee or official of another
16 agency as its public records officer.

17 (2) For state agencies, the name and contact information of the
18 agency's public records officer to whom members of the public may
19 direct requests for disclosure of public records and who will oversee
20 the agency's compliance with the public records disclosure requirements
21 of this chapter shall be published in the state register at the time of
22 designation and annually every year thereafter.

23 (3) For local agencies, the name and contact information of the
24 agency's public records officer to whom members of the public may
25 direct requests for disclosure of public records and who will oversee
26 the agency's compliance within the public records disclosure
27 requirements of this chapter shall be made in a way reasonably
28 calculated to provide notice to the public, including posting at the
29 local agency's place of business, posting on its internet site, or
30 including in its publications.

31 **Sec. 7.** RCW 42.17.348 and 1992 c 139 s 9 are each amended to read
32 as follows:

33 (1) The attorney general's office shall publish, and update when
34 appropriate, a pamphlet, written in plain language, explaining the
35 provisions of the public records subdivision of this chapter.

1 (2) The attorney general, by February 1, 2006, shall adopt by rule
2 an advisory model rule for state and local agencies, as defined in RCW
3 42.17.020, addressing the following subjects:

- 4 (a) Providing fullest assistance to requestors;
5 (b) Fulfilling large requests in the most efficient manner;
6 (c) Fulfilling requests for electronic records; and
7 (d) Any other issues pertaining to public disclosure as determined
8 by the attorney general.

9 (3) The attorney general, in his or her discretion, may from time
10 to time revise the model rule.

11 **Sec. 8.** RCW 42.17.340 and 1992 c 139 s 8 are each amended to read
12 as follows:

13 (1) Upon the motion of any person having been denied an opportunity
14 to inspect or copy a public record by an agency, the superior court in
15 the county in which a record is maintained may require the responsible
16 agency to show cause why it has refused to allow inspection or copying
17 of a specific public record or class of records. The burden of proof
18 shall be on the agency to establish that refusal to permit public
19 inspection and copying is in accordance with a statute that exempts or
20 prohibits disclosure in whole or in part of specific information or
21 records.

22 (2) Upon the motion of any person who believes that an agency has
23 not made a reasonable estimate of the time that the agency requires to
24 respond to a public record request, the superior court in the county in
25 which a record is maintained may require the responsible agency to show
26 that the estimate it provided is reasonable. The burden of proof shall
27 be on the agency to show that the estimate it provided is reasonable.

28 (3) Judicial review of all agency actions taken or challenged under
29 RCW 42.17.250 through 42.17.320 shall be de novo. Courts shall take
30 into account the policy of this chapter that free and open examination
31 of public records is in the public interest, even though such
32 examination may cause inconvenience or embarrassment to public
33 officials or others. Courts may examine any record in camera in any
34 proceeding brought under this section. The court may conduct a hearing
35 based solely on affidavits.

36 (4) Any person who prevails against an agency in any action in the
37 courts seeking the right to inspect or copy any public record or the

1 right to receive a response to a public record request within a
2 reasonable amount of time shall be awarded all costs, including
3 reasonable attorney fees, incurred in connection with such legal
4 action. In addition, it shall be within the discretion of the court to
5 award such person an amount not less than five dollars and not to
6 exceed one hundred dollars for each day that he or she was denied the
7 right to inspect or copy said public record.

8 (5) For actions under this section against counties, the venue
9 provisions of RCW 36.01.050 apply.

10 (6) Actions under this section must be filed within one year of the
11 agency's claim of exemption or the last production of a record on a
12 partial or installment basis.

13 **Sec. 9.** RCW 72.09.345 and 1997 c 364 s 4 are each amended to read
14 as follows:

15 (1) In addition to any other information required to be released
16 under this chapter, the department is authorized, pursuant to RCW
17 4.24.550, to release relevant information that is necessary to protect
18 the public concerning offenders convicted of sex offenses.

19 (2) In order for public agencies to have the information necessary
20 to notify the public as authorized in RCW 4.24.550, the secretary shall
21 establish and administer an end-of-sentence review committee for the
22 purposes of assigning risk levels, reviewing available release plans,
23 and making appropriate referrals for sex offenders. The committee
24 shall assess, on a case-by-case basis, the public risk posed by sex
25 offenders who are: (a) Preparing for their release from confinement
26 for sex offenses committed on or after July 1, 1984; and (b) accepted
27 from another state under a reciprocal agreement under the interstate
28 compact authorized in chapter 72.74 RCW.

29 (3) Notwithstanding any other provision of law, the committee shall
30 have access to all relevant records and information in the possession
31 of public agencies relating to the offenders under review, including
32 police reports; prosecutors' statements of probable cause; presentence
33 investigations and reports; complete judgments and sentences; current
34 classification referrals; criminal history summaries; violation and
35 disciplinary reports; all psychological evaluations and psychiatric
36 hospital reports; sex offender treatment program reports; and juvenile

1 records. Records and information obtained under this subsection shall
2 not be disclosed outside the committee unless otherwise authorized by
3 law.

4 (4) The committee shall review each sex offender under its
5 authority before the offender's release from confinement or start of
6 the offender's term of community placement or community custody in
7 order to: (a) Classify the offender into a risk level for the purposes
8 of public notification under RCW 4.24.550; (b) where available, review
9 the offender's proposed release plan in accordance with the
10 requirements of RCW 72.09.340; and (c) make appropriate referrals.

11 (5) The committee shall classify as risk level I those sex
12 offenders whose risk assessments indicate a low risk of reoffense
13 within the community at large. The committee shall classify as risk
14 level II those offenders whose risk assessments indicate a moderate
15 risk of reoffense within the community at large. The committee shall
16 classify as risk level III those offenders whose risk assessments
17 indicate a high risk of reoffense within the community at large.

18 (6) The committee shall issue to appropriate law enforcement
19 agencies(~~(, for their use in making public notifications under RCW~~
20 ~~4.24.550, narrative notices regarding the pending release of sex~~
21 ~~offenders from the department's facilities. The narrative notices)) a
22 law enforcement bulletin. The law enforcement bulletin shall, at a
23 minimum, (~~describe the~~) provide a narrative description, identity,
24 and criminal history behavior of the offender and shall include the
25 (~~department's~~) committee's risk level classification for the
26 offender(~~(. For sex offenders classified as either risk level II or~~
27 ~~III, the narrative notices shall also include)) and the reasons
28 underlying the classification. Law enforcement bulletins are not a
29 public record under RCW 42.17.310. Law enforcement bulletins are
30 subject to inspection upon request but not available for copying.~~~~

31 (7) The committee shall provide the law enforcement agency a
32 narrative notice for their use in making public notifications under RCW
33 4.24.550 regarding the offenders in subsection (6) of this section.
34 The narrative notice must describe the identity of the offender, the
35 general relationship between the offender and the victim or victims,
36 and the criminal history of the offender. The notices must include the
37 committee's risk level classification for the offender and the reasons
38 underlying the classification. These notices are a public record.

1 **Sec. 10.** RCW 42.17.020 and 2002 c 75 s 1 are each amended to read
2 as follows:

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

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

14 (3) "Ballot proposition" means any "measure" as defined by RCW
15 ((~~29.01.110~~)) 29A.04.091, or any initiative, recall, or referendum
16 proposition proposed to be submitted to the voters of the state or any
17 municipal corporation, political subdivision, or other voting
18 constituency from and after the time when the proposition has been
19 initially filed with the appropriate election officer of that
20 constituency prior to its circulation for signatures.

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

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

25 (a) An organization that has filed a valid certificate of
26 nomination with the secretary of state under chapter ((~~29.24~~)) 29A.20
27 RCW;

28 (b) The governing body of the state organization of a major
29 political party, as defined in RCW ((~~29.01.090~~)) 29A.04.086, that is
30 the body authorized by the charter or bylaws of the party to exercise
31 authority on behalf of the state party; or

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

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

37 (7) "Treasurer" and "deputy treasurer" mean the individuals

1 appointed by a candidate or political committee, pursuant to RCW
2 42.17.050, to perform the duties specified in that section.

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

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

8 (b) Announces publicly or files for office;

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

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

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

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

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

23 (12) "Compensation" unless the context requires a narrower meaning,
24 includes payment in any form for real or personal property or services
25 of any kind: PROVIDED, That for the purpose of compliance with RCW
26 42.17.241, the term "compensation" shall not include per diem
27 allowances or other payments made by a governmental entity to reimburse
28 a public official for expenses incurred while the official is engaged
29 in the official business of the governmental entity.

30 (13) "Continuing political committee" means a political committee
31 that is an organization of continuing existence not established in
32 anticipation of any particular election campaign.

33 (14)(a) "Contribution" includes:

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

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

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

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

11 (b) "Contribution" does not include:

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

14 (ii) Ordinary home hospitality;

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

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

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

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

34 (vii) Messages in the form of reader boards, banners, or yard or
35 window signs displayed on a person's own property or property occupied
36 by a person. However, a facility used for such political advertising
37 for which a rental charge is normally made must be reported as an in-

1 kind contribution and counts towards any applicable contribution limit
2 of the person providing the facility;

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

4 (A) A political party or caucus political committee if the person
5 paying for the services is the regular employer of the person rendering
6 such services; or

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

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

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

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

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

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

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

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

17 (21) "General election" for the purposes of RCW 42.17.640 means the
18 election that results in the election of a person to a state office.
19 It does not include a primary.

20 (22) "Gift," is as defined in RCW 42.52.010.

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

30 (24) "Independent expenditure" means an expenditure that has each
31 of the following elements:

32 (a) It is made in support of or in opposition to a candidate for
33 office by a person who is not (i) a candidate for that office, (ii) an
34 authorized committee of that candidate for that office, (iii) a person
35 who has received the candidate's encouragement or approval to make the
36 expenditure, if the expenditure pays in whole or in part for political
37 advertising supporting that candidate or promoting the defeat of any
38 other candidate or candidates for that office, or (iv) a person with

1 whom the candidate has collaborated for the purpose of making the
2 expenditure, if the expenditure pays in whole or in part for political
3 advertising supporting that candidate or promoting the defeat of any
4 other candidate or candidates for that office;

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

9 (c) The expenditure, alone or in conjunction with another
10 expenditure or other expenditures of the same person in support of or
11 opposition to that candidate, has a value of five hundred dollars or
12 more. A series of expenditures, each of which is under five hundred
13 dollars, constitutes one independent expenditure if their cumulative
14 value is five hundred dollars or more.

15 (25)(a) "Intermediary" means an individual who transmits a
16 contribution to a candidate or committee from another person unless the
17 contribution is from the individual's employer, immediate family as
18 defined for purposes of RCW 42.17.640 through 42.17.790, or an
19 association to which the individual belongs.

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

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

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

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

33 (27) "Lobby" and "lobbying" each mean attempting to influence the
34 passage or defeat of any legislation by the legislature of the state of
35 Washington, or the adoption or rejection of any rule, standard, rate,
36 or other legislative enactment of any state agency under the state
37 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor

1 "lobbying" includes an association's or other organization's act of
2 communicating with the members of that association or organization.

3 (28) "Lobbyist" includes any person who lobbies either in his or
4 her own or another's behalf.

5 (29) "Lobbyist's employer" means the person or persons by whom a
6 lobbyist is employed and all persons by whom he or she is compensated
7 for acting as a lobbyist.

8 (30) "Person" includes an individual, partnership, joint venture,
9 public or private corporation, association, federal, state, or local
10 governmental entity or agency however constituted, candidate,
11 committee, political committee, political party, executive committee
12 thereof, or any other organization or group of persons, however
13 organized.

14 (31) "Person in interest" means the person who is the subject of a
15 record or any representative designated by that person, except that if
16 that person is under a legal disability, the term "person in interest"
17 means and includes the parent or duly appointed legal representative.

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

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

28 (34) "Primary" for the purposes of RCW 42.17.640 means the
29 procedure for nominating a candidate to state office under chapter
30 ((~~29.18 or 29.21~~)) 29A.52 RCW or any other primary for an election that
31 uses, in large measure, the procedures established in chapter ((~~29.18~~
32 ~~or 29.21~~)) 29A.52 RCW.

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

36 (36) "Public record" includes any writing containing information
37 relating to the conduct of government or the performance of any
38 governmental or proprietary function prepared, owned, used, or retained

1 by any state or local agency regardless of physical form or
2 characteristics. For state legislative offices, the office of the
3 secretary of the senate, and the office of the chief clerk of the house
4 of representatives, public records means legislative records as defined
5 in RCW 40.14.100 and also means the following: All budget and
6 financial records; personnel leave, travel, and payroll records;
7 records of legislative sessions; reports submitted to the legislature;
8 and any other record designated a public record by any official action
9 of the senate or the house of representatives.

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

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

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

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

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

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

1 including existing data compilations from which information may be
2 obtained or translated.

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

5 NEW SECTION. **Sec. 11.** Section 4 of this act expires June 30,
6 2005.

7 NEW SECTION. **Sec. 12.** (1) Sections 1, 4, and 9 of this act are
8 necessary for the immediate preservation of the public peace, health,
9 or safety, or support of the state government and its existing public
10 institutions, and take effect immediately.

11 (2) Section 5 of this act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 June 30, 2005."

2SHB 1758 - S COMM AMD

By Committee on Government Operations & Elections

ADOPTED AS AMENDED 04/11/2005

15 On page 1, line 1 of the title, after "disclosure;" strike the
16 remainder of the title and insert "amending RCW 42.17.270, 42.17.348,
17 42.17.340, 72.09.345, and 42.17.020; reenacting and amending RCW
18 42.17.300, 42.17.310, and 42.17.310; adding a new section to chapter
19 42.17 RCW; creating a new section; providing an effective date;
20 providing an expiration date; and declaring an emergency."

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