

## FIFTY FIRST DAY

## MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 2, 2010

The Senate was called to order at 10:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley and McCaslin.

The Naval Air Station Whidbey Island Color Guard consisting of Sergeant Michael Lancaster, U. S. Marine Corps; Corporal Myles Buttler, U. S. Marine Corps; Master At Arms 3<sup>rd</sup> Class, Justin Farrow, U. S. Navy; Lance Corporal Christopher Bearden, U. S. Marine Corps; and Master at Arms Seaman Krystal Bell, U. S. Navy presented the Colors. Captain James Puttler, U. S. Navy offered the prayer.

The National Anthem was performed by Musician 3<sup>rd</sup> Class Sarah Reasner.

## REMARKS BY THE PRESIDENT

President Owen: "Once again incredible job by the Navy and we owe them a great debt of gratitude. Thank you all very, very much."

## INTRODUCTION OF SPECIAL GUESTS

The President introduced members of the U. S. Navy, Rear Admiral James Symonds, Commander, Navy Region Northwest; Rear Admiral Joseph Auicon, Commander, Carrier Strike Group 3; Rear Admiral Mark Guadagnini, Commander, Carrier Strike Group 9; Captain Gerral David, Commanding Officer, Naval Air Station Whidbey Island; Captain Mark Olson, Commanding Officer, Naval Base Kitsap (NBK); Captain Tom Mascolo, Commanding Officer, Naval Station Everett; Captain Gary Hetzel, Commanding Officer, NRNW Reserve Component Command; Captain James Dolan, Commanding Officer, Fleet Industrial Supply Center; Captain Mark Brouker, Commanding Officer, Naval Hospital Bremerton; Captain Steve Williamson, Puget Sound Naval Shipyard Business & Strategic Planning Officer; Captain Jorge Rios, Commanding Officer, Naval Facilities Engineering Command NW; Commander Mark Loose, Commanding Officer, Naval Magazine Indian Island; and Lieutenant Commander Erik Neal, Executive Officer, Naval Undersea Warfare Center, Keyport who were seated in the gallery.

## PERSONAL PRIVILEGE

Senator Haugen: "Thank you Mr. President. Well, it is indeed an honor to stand on the floor and say how proud I am that I represent the Whidbey Island Naval Base. Many of the folks who serve in the Everett station that was in my legislative district. I don't know about the rest of you but when I saw those young men standing up there with the flag I thought about the Olympics and those heroes standing with the flag. Well, let me tell you these young men and women are champions every day for us and to me that really struck home. You know the Military, we think of them as just people who serve when they go to sea as the Navy, but the truth of the matter is they are good neighbors when they are in your communities. The volunteers from Whidbey Island

Naval Base go up and down that Island working in their schools and their communities making huge, huge contributions. They're there so many times when we don't realize the importance of having them here I know when they rescued the person from Mt. St. Helens, I was so proud to know it was a Navy helicopter from Whidbey Island who did that. I often look out my window and see the jets flying over and yes, some people do growl about the noise but it truly is a sound of freedom and we are privileged to have such a large contingency here in the state of Washington. The Military not only with the Navy but from all of them but I particularly like the Navy, I have five brothers, all served in the Military, four of them were Navy officers and 1 Navy man, and I really do think the Navy is the best branch. I just always liked the uniform. Thank you very much."

## PERSONAL PRIVILEGE

Senator Rockefeller: "Thank you Mr. President. Well, I want to join the gentle lady who just spoke in expressing my admiration and appreciation to the United States Marines and United States Navy which are the key stone of some many things that happen in Kitsap County where I'm from. We are proud to claim the Puget Sound Naval Station, the facility of Bangor and the Keyport facility as well. They're part of our strategic assets but there also wonderful community assets. Every one of the enlisted personnel, the officers and the families and the civilian employees and all the retirees add up to a wonderful strong community. They make the quality of life here better here for all of us and in addition to that they serve our country in a magnificent way and the prayer mentioned they do it on land, on the sea, under the sea and abroad and at home and we are indeed indebted to you for protecting our community and our country every day. Thank you very much."

## PERSONAL PRIVILEGE

Senator Benton: "Thank you Mr. President, I too rise to honor the young men and women of our armed forces but for many years I didn't know there was anything, any other armed force other than the Navy. You see, I grew up in a Navy family, my father joined the Navy as a Seaman First Class and when he retired after twenty-one years, he retired as a W01 (Warrant Officer First Class). He was lend leased to the British to outfit three British cruisers for the invasion of Normandy. And so we grew up hearing the stories about the Navy and that's really all he ever talked about. Of course, my oldest brother joined the Navy, flew A3s out of Whidbey and was a member of Gulf of Tonkin Yacht Club. It wasn't until he was shot down in Vietnam that we really came to love the Marines because after about seven hours on the ground a Marine helicopter came and took him out. You know after that he always thought those Marine guys were pretty ok. Prior to that they always had this little rivalry between the Navy and the Marines but after that Marine chopper came in and took him out off the ground he said those Marine boys were ok so our second favorite after that has always been the Marines but those a special place in our hearts and our family for the Navy and we thank you men and women of the Navy and the Marine Corps and all of our armed services for all the fine work they do around the world, making our country proud for everything that they do and everywhere that they go. So thank you very much. It's an honor to be here and honor you today."

## PERSONAL PRIVILEGE

Senator Kilmer: “Thank you Mr. President. I want to echo the remarks of my good colleague from Kitsap County. He is right that the presence of the Navy in our county makes our county stronger and better. But that’s not the only place where the presence of the Navy and its members provide us with greater strength, they’re doing so in the Middle East, in Afghanistan and in Iraq. The Navy is in Haiti and in Chile providing security and humanitarian efforts as we speak. Regardless where they are serving, them and their families sacrifice on our behalf’s and I think we owe them a true debt of gratitude. Their presence today is not only an opportunity to say thank you but it’s also a reminder of the role that we all as citizens need to play in supporting them. In 1961 President Kennedy said, ‘The strength of our armed forces rest not alone upon their active and reserve members or industrial productivity and human resources but also upon the understanding and support of an informed American people.’ That’s why their presence is so important today and that’s why I think we all owe them a thank you. Thank you Mr. President.”

#### PERSONAL PRIVILEGE

Senator Sheldon: “Thank you Mr. President. It’s been a pleasure to represent a large part of Kitsap over the years. I started to think back some of the great memories that I’ve had, to visit Keyport for example and go out on the USS Ohio, one of our first nuclear submarines and actually go under the water in Hood Canal. What an experience that was to see the young people that were running that boat. It was amazing. A chance and a long forgotten memory now for us when the USS Missouri was docked there to go down with you, Mr. President, as well to go aboard the Missouri and get a taste of history, real history of World War II. I guess the best memory I have and it’s about a colleague that we had that would be sitting up towards the front there. Senator Bob Oke when the Senate asked myself and Senator Oke to go to Bremerton and welcome back the Carl Vininnes and represent you and the Senate when that fine carrier came back from the first Gulf War. Senator Oke, of course, had been a Chief Petty Officer in the Navy and the Officer, he really didn’t have much time for the Admirals and other Officers, he really had, his focus was on the enlisted men and he pointed out to me all those young sailors that were on the bow that were first off were obviously coming home to welcome a child that had been born while they were away. So, it was a great experience and the people I’ve met there and the officers and men and women that serve us are a great, great asset to our country. Thank you Mr. President.”

#### PERSONAL PRIVILEGE

Senator Berkey: “Well, I have the honor of representing the district that is home to Naval Station Everett under the command of Captain Mascolo and the Navy Base is a jewel on our Everett waterfront and I might add it is sited directly under the home of former United States Senator Henry M. Jackson which is an interesting coincidence but as a member of our community I would like to say how very proud we are of the men and women who serve our country in the armed forces and who for a brief time call our Pacific Northwest home. Thank you.”

#### PERSONAL PRIVILEGE

Senator Becker: “Thank you Mr. President. I too stand and want to say thank you so much for everything that you do for us. My dad served in the Navy and he always told us such neat stories about being out on the ship and the only injury he received in the

war was getting his appendix out on the ship. We loved it when he put on his uniform and still could fit in it after so many years and it was always a sense of pride in our family. My nephew’s in the Navy and just shipped out to Italy. I’m going to go visit him and I really want to say thank you very much for everything that you do and everything that you’ve done. Thank you.”

#### PERSONAL PRIVILEGE

Senator Brandland: “Well, thank you Mr. President. I also rise in support of the Navy, as someone that spent some time in the Navy. My brother retired from the Navy. It’s funny, well, not funny but not too long ago, or this morning someone said ‘Hey, do you have a, is there a Naval presence in Bellingham?’ and my response was ‘No’. I thought about it for a minute and I thought no, there is not a Naval Base in Whatcom County but I can assure you that there is a naval presence in Whatcom County because and that is the search and rescue arm of the Naval Station Whidbey Island. For years, the search and rescue organization at Whidbey Island has been coming to the aid of, specifically the Whatcom County Sherriff’s Office to help them with search and rescue activities on in the Mt. Baker and in the Cascades and they have actually lost, we’ve lost personnel, Naval personnel have been killed in their rescue attempts up in the Cascades. So, I can tell you right now every year the Navy is in the Cascades with their helicopters with their search and rescue organization rescuing people that go up there and get themselves into a lot of trouble and if it weren’t for the United States Navy and their search and rescue organization there’d be a lot of dead people up there. I also had the opportunity to, with former Secretary of State Ralph Munro visit the USS John Stennis not too long ago and witnessed flight operations in the Pacific Ocean. I’m telling you that is a humbling, humbling experience. To look up there, I think they called it Vultures Gulch or something like that, and watching these airplanes take off and land and you look down at the flight deck are there must be a hundred people roaming around this flight deck as planes are landing and taking off and there so proud, the Captain of the ship was so proud to say the average age of these kids is in their early twenties. They’re responsible for millions of dollars of aircraft. They know where everybody’s at. It is a, it’s like a well run watch to see that whole performance. It was truly humbling to see those young people, men and women taking care of that whole operation and boy I can’t tell you how thankful I am for United States Navy and all that you have done for us. Thank you.”

#### PERSONAL PRIVILEGE

Senator Roach: “Thank you Mr. President. Well, of course I’m going to rise and remind everyone my son’s in the Air Force. He’s a Captain in the Air Force. I love all the branches of the service and I think raised my children and will my grandchildren to love and respect what has been done, the sacrifices that are made to protect our country. Last night I got a phone call about five o’clock, Mr. President, from Levi Larson who was an aide of mine a couple years ago. He’s a Marine now. He called to say he’s going to Afghanistan. We talked for an hour. What an incredible young man that is. The people that sign up, it’s a volunteer career we have, if you’re in the services are very special people, willing to make sacrifices if that be the case. I wanted to mention to you Mr. President, members of the Senate, that well Levi Larson is a Marine his brother Luke Larson just got out of the Marine Corps. He spent two tours in Iraq. He’s from Forks, Washington. There’s something other than what we read about in Twilight, some really good people in Forks and Luke Larson has written a book called ‘Senator’s Son’ of his experiences in a

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novel form of what happened in those two tours in Iraq and I commend that to you Mr. President and members of the Senate because it shows what our young people are doing. It shows what the United States of America is doing to bring peace to the world to keep the shipping lands open, to protect freedom and democracy and I want to thank you and tell you one last thing that when I was growing up in San Diego I would go with my dad to Miramar Naval Air Station, the gun club there. What an experience to shoot trap when, in the back ground, you saw those naval aviators taking off and the roar and just a very exciting thing. More of our young people should be going I think to our air shows to really get a feeling for our country is willing to do to protect our freedoms. Thank you Mr. President.”

PERSONAL PRIVILEGE

Senator Shin: “I too rise in support of our Navy of the United States. I like to tell a little story called a miracle ship. During the Korean War between 1950 and 1953 US forces land in Korean including the navy and we marched on to North and by November 24, 1950, Chinese force crossed the North border and we made a massive evacuation. There’s a little port in North Korea called the Hunan there is a US Navy Captain, load up all the tanks and trucks and the troops about ready to depart to evacuate but he saw from the horizon was one hundred Korean refugees running trying to escape from the Chinese communist invasion and Captain take a look at it, his ship and the refugees without permission from the commanding officer he ordered all the tanks and trucks to be unloaded and dump them in the ocean and he replaced the entire ship with the six thousand Korean refugees and landed in the port in South safely. This year Korea and the United States is celebrating sixtieth anniversary of the Korean War and Korean government and Hollywood decided to make a movie, full length movie, in order to express their compassion and humanity by the US Navy. I thought I’d share that with you. This is a touching story and I was asked be as a discussion on that project and they started producing that movie as we speak now. Thank you Mr. President.”

PERSONAL PRIVILEGE

Senator Kohl-Welles: “Thank you Mr. President. We also have look to the future and I’m very proud that my grandson graduated from Navy boot camp last month in Illinois.”

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Parlette moved adoption of the following resolution:

SENATE RESOLUTION  
8711

By Senators Parlette, Kastama, Gordon, Becker, Honeyford, Kilmer, Pridemore, Shin, Swecker, Franklin, King, Benton,

Morton, Zarelli, Kohl-Welles, Haugen, Eide, Schoesler, Delvin, Pflug, and Regala

WHEREAS, Washington's apple industry is a major contributor to the economic health of both the State and its people; and

WHEREAS, The City of Wenatchee is preparing to celebrate the 91st annual Washington State Apple Blossom Festival to take place from April 22 through May 2, 2010; and

WHEREAS, The Apple Blossom Festival, which began as a one-day gathering of poetry and song in Wenatchee's Memorial Park, is one of the oldest major festivals in the state, first celebrated in 1919 when Mrs. E. Wagner organized the first Blossom Day; and

WHEREAS, The Apple Blossom Festival celebrates the importance of the apple industry in the Wenatchee Valley and its environs; and

WHEREAS, The Apple Blossom Festival recognizes three young women who by their superior and distinctive efforts have exemplified the spirit and meaning of the Apple Blossom Festival; and

WHEREAS, These three young women are selected to reign over the Apple Blossom Festival and serve as ambassadors to the outlying communities as Princesses and Queen; and

WHEREAS, Laurie Bazan has been selected to represent her community as a 2010 Apple Blossom Princess, for her jovial demeanor and commitment to helping others as demonstrated by the generous giving of her time to mentor migrant and low-income middle school students, in addition to her strong academic performance as a Running Start participant and a diverse array of extracurricular activities, including her passion for music as exemplified by her third year of service as the president of the Mariachi Huenachi; and

WHEREAS, Lauren Ferguson has been selected to represent her community as a 2010 Apple Blossom Princess, for her strong leadership ability as shown through the organization of several school activities including freshman orientation and homecoming week and her genuine, lighthearted attitude and passion for life, in addition to her commitment to academic excellence as a member of the Honor Society and her involvement in extracurricular activities, including competitive dance team and volunteering for community charities; and

WHEREAS, Margaret Robinson has been selected to represent her community as the 2010 Apple Blossom Queen, for her compassionate, poised, and humble spirit and her strong academic performance and participation in extracurricular activities including being a member of the swim and dive team and the editor of her high school's newspaper, in addition to her kindhearted, jubilant, and heartfelt love for her family, friends, and community; and

WHEREAS, These three young women all desire to share their proven talents and leadership ambition to serve their community and be an encouragement to those they encounter;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the accomplishments of the members of the Apple Blossom Festival Court and join the City of Wenatchee and the people of the State of Washington in celebrating the Washington State Apple Blossom Festival; and

BE IT FURTHER RESOLVED, That copies of this Resolution be immediately transmitted by the Secretary of the Senate to Queen Margaret Robinson, Princess Laurie Bazan, Princess Lauren Ferguson, and the Board of Directors and Chairpeople of the Washington State Apple Blossom Festival.

Senator Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8711.

The motion by Senator Parlette carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed former Secretary of State Ralph Munro who was seated in the gallery.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Apple Blossom Festival Princess Laurie Bazan, Princess Lauren Ferguson and Queen Margaret Robinson who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Queen Margaret Robinson to address the Senate.

## REMARKS BY MISS MARGARET ROBINSON

Margaret Robinson: "Good morning. See if I can find my cheat sheet. Thank you so much for having Princesses Laurie, Lauren and myself here today. It is such an honor to tour the Capitol and speak to you and we are so privileged to represent the Wenatchee Valley on behalf of the Apple Blossom Festival. To those of us who call Wenatchee our home the festival embodies our friends, family and community coming together for the common good. It offers a time for us to appreciate the natural beauty of the Wenatchee Valley and to spend time with our loved ones. So what makes the Wenatchee Valley unique? Maybe it is skiing on the slopes of Mission Ridge or biking around the Columbia River on our beloved loop trail. Perhaps it is hiking through the pristine wonder of the enchantment lakes before returning home to enjoy our three hundred days of sunshine. Maybe, what makes this special is that with this sunshine we can enjoy bountiful harvest of the farmers market where we can get a juicy sample of the world's best apples and cherries while strolling through our historic downtown area. But maybe, what makes us truly unique is more than our local community attractions. Maybe what really sets us apart is the shared sense of purpose that our community exhibits through these activities. Nothing better demonstrates that sense of shared purpose than the eleven glorious days of the Apple Blossom Festival, when thousands of volunteers freely give themselves to create something really unique in all of Washington. We would like to invite all of you to experience the ninety-first Apple Blossom Festival from April 22-May 2 or visit us at the web at AppleBlossom.org. From the youth parade to the grand parade and the carnival to the food fair, there are countless opportunities to experience the community support and family atmosphere that the festival represents. See you at Festival 2010."

## MOTION

At 11:09 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:04 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1149, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Williams, Roach, Simpson, Kirby, Dunshee, Nelson and Ormsby)

Protecting consumers from breaches of security.

The measure was read the second time.

## MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted. Strike everything after the enacting clause and insert the following: "NEW SECTION. Sec. 1. The legislature recognizes that data breaches of credit and debit card information contribute to identity theft and fraud and can be costly to consumers. The legislature also recognizes that when a breach occurs, remedial measures such as reissuance of credit or debit cards affected by the breach can help to reduce the incidence of identity theft and associated costs to consumers. Accordingly, the legislature intends to encourage financial institutions to reissue credit and debit cards to consumers when appropriate, and to permit financial institutions to recoup data breach costs associated with the reissuance from large businesses and card processors who are negligent in maintaining or transmitting card data.

NEW SECTION. Sec. 2. A new section is added to chapter 19.255 RCW to read as follows:

(1) For purposes of this section:

(a) "Account information" means: (i) The full, unencrypted magnetic stripe of a credit card or debit card; (ii) the full, unencrypted account information contained on an identification device as defined under RCW 19.300.010; or (iii) the unencrypted primary account number on a credit card or debit card or identification device, plus any of the following if not encrypted: Cardholder name, expiration date, or service code.

(b) "Breach" has the same meaning as "breach of the security of the system" in RCW 19.255.010.

(c) "Business" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity that processes more than six million credit card and debit card transactions annually, and who provides, offers, or sells goods or services to persons who are residents of Washington.

(d) "Credit card" has the same meaning as in RCW 9A.56.280.

(e) "Debit card" has the same meaning as in RCW 9A.56.280 and for the purposes of this section, includes a payroll debit card.

(f) "Encrypted" means enciphered or encoded using standards reasonable for the breached business or processor taking into account the business or processor's size and the number of transactions processed annually.

(g) "Financial institution" has the same meaning as in RCW 30.22.040.

(h) "Processor" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity, other than a business as defined under this section, that directly processes or transmits account information for or on behalf of another person as part of a payment processing service.

(i) "Service code" means the three or four digit number in the magnetic stripe or on a credit card or debit card that is used to specify acceptance requirements or to validate the card.

(j) "Vendor" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity that manufactures and sells software or equipment that is designed to process, transmit, or store account

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information or that maintains account information that it does not own.

(2) Processors, businesses, and vendors are not liable under this section if (a) the account information was encrypted at the time of the breach, or (b) the processor, business, or vendor was certified compliant with the payment card industry data security standards adopted by the payment card industry security standards council, and in force at the time of the breach. A processor, business, or vendor will be considered compliant, if its payment card industry data security compliance was validated by an annual security assessment, and if this assessment took place no more than one year prior to the time of the breach. For the purposes of this subsection (2), a processor, business, or vendor's security assessment of compliance is nonrevocable. The nonrevocability of a processor, business, or vendor's security assessment of compliance is only for the purpose of determining a processor, business, or vendor's liability under this subsection (2).

(3)(a) If a processor or business fails to take reasonable care to guard against unauthorized access to account information that is in the possession or under the control of the business or processor, and the failure is found to be the proximate cause of a breach, the processor or business is liable to a financial institution for reimbursement of reasonable actual costs related to the reissuance of credit cards and debit cards that are incurred by the financial institution to mitigate potential current or future damages to its credit card and debit card holders that reside in the state of Washington as a consequence of the breach, even if the financial institution has not suffered a physical injury in connection with the breach. In any legal action brought pursuant to this subsection, the prevailing party is entitled to recover its reasonable attorneys' fees and costs incurred in connection with the legal action.

(b) A vendor, instead of a processor or business, is liable to a financial institution for the damages described in (a) of this subsection to the extent that the damages were proximately caused by the vendor's negligence and if the claim is not limited or foreclosed by another provision of law or by a contract to which the financial institution is a party.

(4) Nothing in this section may be construed as preventing or foreclosing any entity responsible for handling account information on behalf of a business or processor from being made a party to an action under this section.

(5) Nothing in this section may be construed as preventing or foreclosing a processor, business, or vendor from asserting any defense otherwise available to it in an action including, but not limited to, defenses of contract, or of contributory or comparative negligence.

(6) In cases to which this section applies, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which was the proximate cause of the claimant's damages.

(7) The remedies under this section are cumulative and do not restrict any other right or remedy otherwise available under law, however a trier of fact may reduce damages awarded to a financial institution by any amount the financial institution recovers from a credit card company in connection with the breach, for costs associated with access card reissuance.

**NEW SECTION. Sec. 3.** This act takes effect July 1, 2010.

**NEW SECTION. Sec. 4.** This act applies prospectively only. This act applies to any breach occurring on or after the effective date of this section."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Brandland, Senators Benton, McCaslin and Pflug were excused.

MOTION

On motion of Senator Marr, Senators Fairley, Kastama, Oemig and Ranker were excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Second Substitute House Bill No. 1149.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "security;" strike the remainder of the title and insert "adding a new section to chapter 19.255 RCW; creating new sections; and providing an effective date."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Second Substitute House Bill No. 1149 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1149 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1149 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Kauffman

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1149 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2585, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kelley, Kirby and Moeller)

Concerning insurance. Revised for 1st Substitute: Addressing insurance statutes, generally.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, Substitute House Bill No. 2585 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2585.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2585 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2585, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2226, by House Committee on Judiciary (originally sponsored by Representatives Orcutt, Blake, Maxwell, Williams and Hope)

Issuing firearms certificates to retired law enforcement officers.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2226 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2226.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2226 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2226, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SENATE BILL 5041,  
 SUBSTITUTE SENATE BILL 5046,  
 ENGROSSED SENATE BILL 5516,  
 SENATE BILL 5582,  
 SECOND ENGROSSED SENATE BILL 5617,  
 SUBSTITUTE SENATE BILL 6197,  
 SUBSTITUTE SENATE BILL 6211,  
 SUBSTITUTE SENATE BILL 6213,  
 SENATE BILL 6227,  
 SENATE BILL 6229,  
 SUBSTITUTE SENATE BILL 6239,  
 SUBSTITUTE SENATE BILL 6251,  
 SUBSTITUTE SENATE BILL 6271,  
 SUBSTITUTE SENATE BILL 6273,  
 SENATE BILL 6275,  
 ENGROSSED SUBSTITUTE SENATE BILL 6286,  
 ENGROSSED SENATE BILL 6287,  
 SENATE BILL 6288,  
 SENATE BILL 6297,  
 SUBSTITUTE SENATE BILL 6298,  
 SUBSTITUTE SENATE BILL 6299,  
 ENGROSSED SUBSTITUTE SENATE BILL 6306,  
 SUBSTITUTE SENATE BILL 6337,  
 SENATE BILL 6365,  
 SUBSTITUTE SENATE BILL 6367,  
 SUBSTITUTE SENATE BILL 6371,  
 SUBSTITUTE SENATE BILL 6395,  
 SUBSTITUTE SENATE BILL 6398,  
 SENATE BILL 6450,  
 SENATE BILL 6467,  
 SUBSTITUTE SENATE BILL 6524,  
 SENATE BILL 6543,  
 SUBSTITUTE SENATE BILL 6544,  
 SENATE BILL 6546,  
 SUBSTITUTE SENATE BILL 6584,  
 SUBSTITUTE SENATE BILL 6591,  
 SUBSTITUTE SENATE BILL 6634,  
 SUBSTITUTE SENATE BILL 6674,  
 SUBSTITUTE SENATE BILL 6749,  
 SENATE JOINT MEMORIAL 8026.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2551, by House Committee on Ways & Means (originally sponsored by Representatives Cody, Green, Sullivan, Pedersen, Darneille and Moeller)

Establishing the Washington vaccine association.

FIFTY FIRST DAY, MARCH 2, 2010

2010 REGULAR SESSION

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following: "**NEW SECTION, Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Association" means the Washington vaccine association.

(2) "Covered lives" means all persons under the age of nineteen in Washington state who are:

(a) Covered under an individual or group health benefit plan issued or delivered in Washington state or an individual or group health benefit plan that otherwise provides benefits to Washington residents; or

(b) Enrolled in a group health benefit plan administered by a third-party administrator. Persons under the age of nineteen for whom federal funding is used to purchase vaccines or who are enrolled in state purchased health care programs covering low-income children including, but not limited to, apple health for kids under RCW 74.09.470 and the basic health plan under chapter 70.47 RCW are not considered "covered lives" under this chapter.

(3) "Estimated vaccine cost" means the estimated cost to the state over the course of a state fiscal year for the purchase and distribution of vaccines purchased at the federal discount rate by the department of health.

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005 and also includes health benefit plans administered by a third-party administrator.

(5) "Health carrier" has the same meaning as defined in RCW 48.43.005.

(6) "Secretary" means the secretary of the department of health.

(7) "State supplied vaccine" means vaccine purchased by the state department of health for covered lives for whom the state is purchasing vaccine using state funds raised via assessments on health carriers and third-party administrators as provided in this chapter.

(8) "Third-party administrator" means any person or entity who, on behalf of a health insurer or health care purchaser, receives or collects charges, contributions, or premiums for, or adjusts or settles claims on or for, residents of Washington state or Washington health care providers and facilities.

(9) "Total nonfederal program cost" means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase and distribution of vaccines.

(10) "Vaccine" means a preparation of killed or attenuated living microorganisms, or fraction thereof, that upon administration stimulates immunity that protects against disease and is approved by the federal food and drug administration as safe and effective and recommended by the advisory committee on immunization practices of the centers for disease control and prevention for administration to children under the age of nineteen years.

**NEW SECTION, Sec. 2.** There is created a nonprofit corporation to be known as the Washington vaccine association. The association is formed for the purpose of collecting and remitting adequate funds from health carriers and third-party administrators for the cost of vaccines provided to certain children in Washington state.

**NEW SECTION, Sec. 3.** (1) The association is comprised of all health carriers issuing or renewing health benefit plans in Washington state and all third-party administrators conducting business on behalf of residents of Washington state or Washington

health care providers and facilities. Third-party administrators are subject to registration under section 9 of this act.

(2) The association is a nonprofit corporation under chapter 24.03 RCW and has the powers granted under that chapter.

(3) The board of directors includes the following voting members:

(a) Four members, selected from health carriers or third-party administrators, excluding health maintenance organizations, that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(b) One member selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(c) One member, representing health carriers not otherwise represented on the board under (a) or (b) of this subsection, who is elected from among the health carrier members not designated under (a) or (b) of this subsection.

(d) One member, representing Taft Hartley plans, appointed by the secretary from a list of nominees submitted by the Northwest administrators association.

(e) One member representing Washington state employers offering self-funded health coverage, appointed by the secretary from a list of nominees submitted by the Puget Sound health alliance.

(f) Two physician members appointed by the secretary, including at least one board certified pediatrician.

(g) The secretary, or a designee of the secretary with expertise in childhood immunization purchasing and distribution.

(4) The directors' terms and appointments must be specified in the plan of operation adopted by the association.

(5) The board of directors of the association shall:

(a) Prepare and adopt articles of association and bylaws;

(b) Prepare and adopt a plan of operation;

(c) Submit the plan of operation to the secretary for approval;

(d) Conduct all activities in accordance with the approved plan of operation;

(e) Enter into contracts as necessary or proper to collect and disburse the assessment;

(f) Enter into contracts as necessary or proper to administer the plan of operation;

(g) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person;

(h) Appoint, from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary;

(i) Obtain such liability and other insurance coverage for the benefit of the association, its directors, officers, employees, and agents as may in the judgment of the board of directors be helpful or necessary for the operation of the association;

(j) By May 1, 2010, establish the estimated amount of the assessment needed for the period of May 1, 2010, through December 31, 2010, based upon the estimate provided to the association under section 4(1) of this act; and notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's total assessment for this period by May 15, 2010;

(k) On an annual basis, beginning no later than November 1, 2010, and by November 1st of each year thereafter, establish the estimated amount of the assessment;

(l) Notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's estimated total assessment by November 15th of each year;

(m) Submit a periodic report to the secretary listing those health carriers or third-party administrators that failed to remit their assessments and audit health carrier and third-party administrator books and records for accuracy of assessment payment submission;

(n) Allow each health carrier or third-party administrator no more than ninety days after the notification required by (l) of this subsection to remit any amounts in arrears or submit a payment plan, subject to approval by the association and initial payment under an approved payment plan;

(o) Deposit annual assessments collected by the association, less the association's administrative costs, with the state treasurer to the credit of the universal vaccine purchase account established in RCW 43.70.720;

(p) Borrow and repay such working capital, reserve, or other funds as, in the judgment of the board of directors, may be helpful or necessary for the operation of the association; and

(q) Perform any other functions as may be necessary or proper to carry out the plan of operation and to affect any or all of the purposes for which the association is organized.

(6) The secretary shall convene the initial meeting of the association board of directors.

**NEW SECTION. Sec. 4.** (1) The secretary shall estimate the total nonfederal program cost for the upcoming calendar year by October 1, 2010, and October 1st of each year thereafter. Additionally, the secretary shall subtract any amounts needed to serve children enrolled in state purchased health care programs covering low-income children for whom federal vaccine funding is not available, and report the final amount to the association. In addition, the secretary shall perform such calculation for the period of May 1st through December 31st, 2010, as soon as feasible but in no event later than April 1, 2010. The estimates shall be timely communicated to the association.

(2) The board of directors of the association shall determine the method and timing of assessment collection in consultation with the department of health. The board shall use a formula designed by the board to ensure the total anticipated nonfederal program cost, minus costs for other children served through state-purchased health care programs covering low-income children, calculated under subsection (1) of this section, is collected and transmitted to the universal vaccine purchase account created in RCW 43.70.720 in order to ensure adequacy of state funds to order state-supplied vaccine from federal centers for disease control and prevention.

(3) Each licensed health carrier and each third-party administrator on behalf of its clients' health benefit plans must be assessed and is required to timely remit payment for its share of the total amount needed to fund nonfederal program costs calculated by the department of health. Such an assessment includes additional funds as determined necessary by the board to cover the reasonable costs for the association's administration. The board shall determine the assessment methodology, with the intent of ensuring that the nonfederal costs are based on actual usage of vaccine for a health carrier or third-party administrator's covered lives. State and local governments and school districts must pay their portion of vaccine expense for covered lives under this chapter.

(4) The board of the association shall develop a mechanism through which the number and cost of doses of vaccine purchased under this chapter that have been administered to children covered by each health carrier, and each third-party administrator's clients health benefit plans, are attributed to each such health carrier and third-party administrator. Except as otherwise permitted by the

board, this mechanism must include at least the following: Date of service; patient name; vaccine received; and health benefit plan eligibility. The data must be collected and maintained in a manner consistent with applicable state and federal health information privacy laws. Beginning November 1, 2011, and each November 1st thereafter, the board shall factor the results of this mechanism for the previous year into the determination of the appropriate assessment amount for each health carrier and third-party administrator for the upcoming year.

(5) For any year in which the total calculated cost to be received from association members through assessments is less than the total nonfederal program cost, the association must pay the difference to the state for deposit into the universal vaccine purchase account established in RCW 43.70.720. The board may assess, and the health carrier and third-party administrators are obligated to pay, their proportionate share of such costs and appropriate reserves as determined by the board.

(6) The aggregate amount to be raised by the association in any year may be reduced by any surpluses remaining from prior years.

(7) In order to generate sufficient start-up funding, the association may accept prepayment from member health carriers and third-party administrators, subject to offset of future amounts otherwise owing or other repayment method as determined by the board. The initial deposit of start-up funding must be deposited into the universal vaccine purchase account on or before April 30, 2010.

**NEW SECTION. Sec. 5.** (1) The board of the association shall establish a committee for the purposes of developing recommendations to the board regarding selection of vaccines to be purchased in each upcoming year by the department. The committee must be composed of at least five voting board members, including at least three health carrier or third-party administrator members, one physician, and the secretary or the secretary's designee. The committee must also include a representative of vaccine manufacturers, who is a nonvoting member of the committee. The representative of vaccine manufacturers must be chosen by the secretary from a list of three nominees submitted collectively by vaccine manufacturers on an annual basis.

(2) In selecting vaccines to purchase, the following factors should be strongly considered by the committee: Patient safety and clinical efficacy, public health and purchaser value, compliance with RCW 70.95M.115, patient and provider choice, and stability of vaccine supply.

**NEW SECTION. Sec. 6.** In addition to the duties and powers enumerated elsewhere in this chapter:

(1) The association may, pursuant to either vote of its board of directors or request of the secretary, audit compliance with reporting obligations established under the association's plan of operation. Upon failure of any entity that has been audited to reimburse the costs of such audit as certified by vote of the association's board of directors within forty-five days of notice of such vote, the secretary shall assess a civil penalty of one hundred fifty percent of the amount of such costs.

(2) The association may establish an interest charge for late payment of any assessment under this chapter. The secretary shall assess a civil penalty against any health carrier or third-party administrator that fails to pay an assessment within three months of notification under section 3 of this act. The civil penalty under this subsection is one hundred fifty percent of such assessment.

(3) The secretary and the association are authorized to file liens and seek judgment to recover amounts in arrears and civil penalties, and recover reasonable collection costs, including reasonable attorneys' fees and costs. Civil penalties so levied must be deposited in the universal vaccine purchase account created in RCW 43.70.720.

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(4) The secretary may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this section.

**NEW SECTION. Sec. 7.** The board of directors of the association shall submit to the secretary, no later than one hundred twenty days after the close of the association's fiscal year, a financial report in a form approved by the secretary.

**NEW SECTION. Sec. 8.** No liability on the part of, and no cause of action of any nature, shall arise against any member of the board of the association, against an employee or agent of the association, or against any health care provider for any lawful action taken by them in the performance of their duties or required activities under this chapter.

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.24 RCW to read as follows:

(1)(a) Beginning September 1, 2010, a third-party administrator must register with the department of licensing and renew its registration on an annual basis thereafter prior to December 31st of each year, or within ten days after the registrant changes its name, business name, business address, or business telephone number, whichever occurs sooner.

(b) The registrant shall pay the registration or renewal fee established by the department of licensing as provided in RCW 43.24.086.

(c) Any person or entity that is acting as or holding itself out to be a third-party administrator while failing to have registered under this section is subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation. The civil penalty is in addition to any other penalties that may be imposed for violations of other laws of this state.

(2) For the purposes of this section, "third-party administrator" has the same meaning as defined in section 1 of this act.

(3) The department of licensing may adopt rules under chapter 34.05 RCW as necessary to implement this section.

**Sec. 10.** RCW 43.70.720 and 2009 c 564 s 934 are each amended to read as follows:

The universal vaccine purchase account is created in the custody of the state treasurer. Receipts from public and private sources for the purpose of increasing access to vaccines for children may be deposited into the account. Expenditures from the account must be used exclusively for the purchase of vaccines, at no cost to health care providers in Washington, to administer to children under nineteen years old who are not eligible to receive vaccines at no cost through federal programs. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 11.** Sections 1 through 8 and 12 through 14 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 12.** (1) The association board may, on or after June 30, 2015, vote to recommend termination of the association if it finds that the original intent of its formation and operation, which is to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers, has not been achieved. The association board shall provide notice of the recommendation to the relevant policy and fiscal committees of the legislature within thirty days of the vote being taken by the association board. If the legislature has not acted by the last day of the next regular legislative session to reject the board's recommendation, the board may vote to permanently dissolve the association.

(2) In the event of a voluntary or involuntary dissolution of the association, funds remaining in the universal purchase vaccine account created in RCW 43.70.720 that were collected under this chapter must be returned to the member health carrier and third-party administrators in proportion to their previous year's

contribution, from any balance remaining following the repayment of any prepayments for start-up funding not previously recouped by such member.

**NEW SECTION. Sec. 13.** Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms and practices in place that enable the association to accurately track vaccine delivered to association members' covered lives and must submit documentation in such a form as may be prescribed by the board in consultation with state physician organizations. Physicians and other persons providing childhood immunization are strongly encouraged to use state supplied vaccine whenever possible. Nothing in this chapter prohibits health carriers and third-party administrators from denying claims for vaccine serum costs when the serum or serums providing similar protection are provided or available via state supplied vaccine.

**NEW SECTION. Sec. 14.** If the requirement that any segment of health carriers, third-party administrators, or state or local governmental entities provide funding for the program established in this chapter is invalidated by a court of competent jurisdiction, the board of the association may terminate the program one hundred twenty days following a final judicial determination on the matter.

**NEW SECTION. Sec. 15.** A new section is added to chapter 48.43 RCW to read as follows:

Assessments paid by carriers under section 4 of this act may be considered medical expenses for purposes of rate setting and regulatory filings.

**NEW SECTION. Sec. 16.** A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to assessments described in sections 3 and 4 of this act received by a nonprofit corporation established under section 2 of this act.

**NEW SECTION. Sec. 17.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted:

On page 3, line 30 after "operation" insert ". The plan of operation shall include a dispute mechanism through which a carrier or third party administrator can challenge an assessment determination by the board under section 4 of this chapter. The board shall include a means to bring unresolved disputes to an impartial decision maker as a component of the dispute mechanism;"

Senators Keiser and Parlette spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 3, line 30 to the committee striking amendment to Second Substitute House Bill No. 2551.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 2551.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "association;" strike the remainder of the title and insert "amending RCW 43.70.720; adding a new section to chapter 43.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70 RCW; prescribing penalties; and declaring an emergency."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 2551 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Oemig and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2551 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2551 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Stevens

Excused: Senators Fairley, McCaslin and Pflug

SECOND SUBSTITUTE HOUSE BILL NO. 2551 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Prentice was excused.

#### MOTION

On motion of Senator Brandland, Senators Delvin and Hewitt were excused.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2560, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Orwall, Uptegrove, Quall, Simpson, Nelson and Morrell)

Regulating joint underwriting associations. Revised for 1st Substitute: Forming joint underwriting associations.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 2560 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

#### MOTION

On motion of Senator Pridemore, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2560.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2560 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 17; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Marr, Morton, Parlette, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Fairley, McCaslin, Pflug and Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2560, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1653, by Representative Simpson

Clarifying the integration of shoreline management act policies with the growth management act.

The measure was read the second time.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed House Bill No. 1653 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

Senator Holmquist spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1653.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed House Bill No. 1653 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 10; Absent, 0; Excused, 4. Voting yea: Senators Benton, Berkey, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Holmquist, Morton, Roach, Sheldon, Stevens and Zarelli

Excused: Senators Fairley, McCaslin, Pflug and Prentice

ENGROSSED HOUSE BILL NO. 1653, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2704, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Takko, Hinkle, Appleton, Haler, Rolfes, Van De Wege, Quall, Warnick and Morris)

Transferring the Washington main street program to the department of archaeology and historic preservation.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 2704 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Parlette and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2704.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2704 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 2704, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2593, by House Committee on Agriculture & Natural Resources (originally

sponsored by Representatives Rolfes, Morris, Upthegrove, Williams, Liias, White and Nelson)

Concerning the department of fish and wildlife's ability to manage shellfish resources.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted: Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for commercial purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for commercial purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for commercial purposes is a gross misdemeanor.

**NEW SECTION. Sec. 2.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for personal use purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for personal use purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for personal use purposes is a misdemeanor.

**Sec. 3.** RCW 77.70.500 and 2009 c 355 s 1 are each amended to read as follows:

(1)(a) As part of a coastal commercial Dungeness crab pot removal program, the department shall issue a crab pot removal permit that allows the participants in the Dungeness crab-coastal fishery created in RCW 77.70.280 to remove crab pots belonging to state commercial licensed crab fisheries from coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season, regardless of whether the crab pot was originally set by the participant or not.

(b) Beginning fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the department may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season.

(c) In cooperation with individuals with a current commercial Dungeness crab-coastal license, the department may expand the coastal commercial Dungeness crab pot removal program to those areas closed to commercial Dungeness crab harvest prior to the end of the primary season.

(d) Nothing in this section prohibits the department from exempting certain crab pots from the coastal commercial Dungeness crab pot removal program or from restricting crab pot removal activities to specific geographic areas.

~~((e) The department may adopt rules to implement this subsection (1-))~~

(2)(a) The department may expand the crab pot removal program to allow for the removal of shellfish pots belonging to state commercial or recreational licensed shellfish fisheries from Puget Sound waters during shellfish harvest closures, regardless of whether the shellfish pot was originally set by the permittee or not.

(b) If the department expands the program to Puget Sound waters, the department shall limit the program as necessary to streamline implementation, minimize the oversight burden on fish and wildlife enforcement officers, minimize interference with lawful fisheries and other user groups, minimize administrative overhead cost, and avoid the collection of shellfish pots that are not abandoned. The program may be limited as deemed appropriate by the department, including limitations on:

(i) The number of participants;

(ii) The eligible geographic areas in Puget Sound where shellfish pots may be recovered;

(iii) The types of shellfish pots that may be recovered;

(iv) The maximum or minimum depth where a shellfish pot must be located to be eligible for recovery; and

(v) The ports through which the vessels collecting the abandoned shellfish pots may operate.

(3) The department may adopt rules to implement subsections (1) and (2) of this section.

(4)(a) The following are exempt from complying with the lost and found property provisions in chapter 63.21 RCW:

(i) An individual participating in permitted crab pot removal activities in coastal marine waters who has a valid crab pot removal permit, and who adheres to the provisions of the permit as they relate to crab pot removal(~~(, is exempt from complying with the lost and found property provisions in chapter 63.21 RCW.))~~; and

(ii) An individual participating in permitted shellfish pot removal activities in Puget Sound waters who has a valid shellfish pot removal permit and who adheres to the provisions of the permit as they relate to shellfish pot removal.

(b) The individual who removes ~~(the crab)~~ a shellfish pot under a valid crab pot removal permit or a valid shellfish pot removal permit takes the property free and clear of all claims of the owner or previous holder and free and clear of all individuals claiming ownership under the previous owner.

~~((3)(a) A person is guilty of unlawful use of a crab pot removal permit if the person:~~

~~(i) Violates any terms or conditions of the permit issued under this section; or~~

~~(ii) Violates any rule of the department applicable to the requirement for, issuance of, or use of the permit.~~

~~(b) Unlawful use of a crab pot removal permit is a misdemeanor.)~~

(5) A violation of this section, or any rules or permit conditions provided under this section, is punishable as provided in RCW 77.15.750.

(6) Individuals who remove shellfish pots under a valid crab pot removal permit or a valid shellfish pot removal permit in accordance with this section are not subject to permitting under RCW 77.55.021.

**Sec. 4.** RCW 77.15.520 and 1998 c 190 s 37 are each amended to read as follows:

(1) Except for actions involving shellfish gear punishable under section 1 of this act, a person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the ~~(department)~~ commission specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor.

**Sec. 5.** RCW 77.15.380 and 2001 c 253 s 39 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for, takes, possesses, or harvests fish or shellfish and:

(a) The person does not have and possess the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any rule of the commission or the director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing or possession of fish, except for use of a net to take fish as provided for in RCW 77.15.580 and the unlawful use of shellfish gear for personal use as provided in section 2 of this act.

(2) Unlawful recreational fishing in the second degree is a misdemeanor.

**Sec. 6.** RCW 63.21.080 and 2009 c 355 s 2 are each amended to read as follows:

This chapter shall not apply to:

(1) Motor vehicles under chapter 46.52 RCW;

(2) Unclaimed property in the hands of a bailee under chapter 63.24 RCW;

(3) Uniform disposition of unclaimed property under chapter 63.29 RCW;

(4) Secured vessels under chapter 79A.65 RCW; and

(5) Crab or other shellfish pots in coastal marine or Puget Sound waters under RCW 77.70.500.

**Sec. 7.** RCW 77.12.865 and 2005 c 146 s 1004 are each amended to read as follows:

(1) As used in this section and RCW 77.12.870, "derelict fishing gear" includes lost or abandoned fishing nets, fishing lines, ~~(crab pots, shrimp pots,))~~ and other commercial and recreational fishing equipment. The term does not include lost or abandoned vessels or shellfish pots.

(2) The department, in partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must publish guidelines for the safe removal and disposal of derelict fishing gear. The guidelines ~~((must be completed by August 31, 2002, and))~~ may be updated as deemed necessary by the department. The guidelines must be made available to any person interested in derelict fishing gear removal.

(3) Derelict fishing gear removal conducted in accordance with the guidelines prepared in subsection (2) of this section is not subject to permitting under RCW 77.55.021.

**Sec. 8.** RCW 77.12.870 and 2009 c 333 s 21 are each amended to read as follows:

(1) The department, in ~~((consultation with the Northwest straits commission, the department of natural resources, and other interested parties, must create and maintain a database of known derelict fishing gear))~~ partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must create and ensure the maintenance of a database of known derelict fishing gear and shellfish pots, including the type of gear and its location.

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(2) A person who loses or abandons commercial fishing gear or shellfish pots within the waters of the state is encouraged to report the location of the loss and the type of gear lost to the department within forty-eight hours of the loss.

**Sec. 9.** RCW 77.15.750 and 2009 c 333 s 14 are each amended to read as follows:

(1) A person is guilty of unlawful use of a department permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the requirement for, issuance of, or use of the permit.

(2)(a) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, crab pot removal permits and shellfish pot removal permits under RCW 77.70.500, depredation permits, landowner hunting permits, commercial carp license permits, permits to possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and permits to hold, sponsor, or attend an event requiring a banquet permit from the liquor control board.

(b) Permits excluded from subsection (1) of this section include fish and wildlife lands vehicle use permits, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(3) Unlawful use of a department permit is a misdemeanor.

(4) A person is guilty of unlawful use of an experimental fishery permit or a trial commercial fishery permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the issuance or use of the permit.

(5) Unlawful use of an experimental fishery permit or a trial commercial fishery permit is a gross misdemeanor.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Experimental fishery permit" means a permit issued by the director for either:

(i) An "emerging commercial fishery," defined as a fishery for a newly classified species for which the department has determined that there is a need to limit participation; or

(ii) An "expanding commercial fishery," defined as a fishery for a previously classified species in a new area, by a new method, or at a new effort level, for which the department has determined that there is a need to limit participation.

(b) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species or harvest of a previously classified species in a new area or by a new means.

**Sec. 10.** RCW 77.55.041 and 2005 c 146 s 302 are each amended to read as follows:

(1) The removal of derelict fishing gear does not require a permit under this chapter if the gear is removed according to the guidelines described in RCW 77.12.865.

(2) The removal of crab and other shellfish gear does not require a permit under this chapter if the gear is removed under a permit issued pursuant to RCW 77.70.500.

**Sec. 11.** RCW 77.32.430 and 2009 c 333 s 40 are each amended to read as follows:

(1) Catch record card information is necessary for proper management of the state's food fish and game fish species and shellfish resources. Catch record card administration shall be under rules adopted by the commission. There is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs ten dollars.

(2) A license to take and possess Dungeness crab is only valid in Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has in possession a valid catch record card officially endorsed for Dungeness crab. The endorsement shall cost no more than three dollars, including any or all fees authorized under RCW 77.32.050, when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than one dollar, including any or all fees authorized under RCW 77.32.050, when purchased for a temporary combination fishing license authorized under RCW 77.32.470(3)(a).

(3) Catch record cards issued with affixed temporary short-term charter stamp licenses are not subject to the ten-dollar charge nor to the Dungeness crab endorsement fee provided for in this section. Charter boat or guide operators issuing temporary short-term charter stamp licenses shall affix the stamp to each catch record card issued before fishing commences. Catch record cards issued with a temporary short-term charter stamp are valid for one day.

(4) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(5)(a) The funds received from the sale of catch record cards and the Dungeness crab endorsement must be deposited into the state wildlife account created in RCW 77.12.170. The funds received from the Dungeness crab endorsement may be used only for the sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries. Until June 30, 2011, funds received from the Dungeness crab endorsement may be used for the removal and disposal of derelict shellfish gear either directly by the department or under contract with a third party.

(b) Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

**NEW SECTION. Sec. 12.** (1) The department of fish and wildlife shall, in cooperation with stakeholders in the recreational and commercial crab fisheries and other knowledgeable individuals, as deemed appropriate by the director of the department, deliver to the appropriate committees of the legislature findings and recommendations relating to the following topics:

(a) The scope of the derelict shellfish gear problem in Washington waters, including estimates of the existing quantity of derelict gear and estimates of annual shellfish gear loss;

(b) The cost of recovering and disposing of derelict shellfish gear;

(c) Technical and legal barriers to recovering and disposing of derelict shellfish gear;

(d) Possible public education efforts to prevent future shellfish gear loss and to promote compliance with required gear specifications;

(e) Possible changes to the current funding structure for derelict shellfish gear removal and Dungeness crab sampling, monitoring, and management, which may include the termination or alteration of the existing Dungeness crab endorsement required under RCW 77.32.430 and the identification of possible new funding sources.

(2) If deemed practicable by the director of the department of fish and wildlife, the findings and recommendations included in the report required in this section should be informed by the actual collection of derelict shellfish pots.

(3) Findings and recommendations required under this section must be submitted consistent with RCW 43.01.036 by December 31, 2010.

(4) This section expires July 31, 2011.

**Sec. 13.** RCW 77.70.350 and 2006 c 159 s 1 are each amended to read as follows:

(1) The following restrictions apply to vessel designations and substitutions on Dungeness crab-coastal fishery licenses:

(a) The holder of the license may not:

(i) Designate on the license a vessel the hull length of which exceeds ninety-nine feet; or

(ii) Change vessel designation if the hull length of the vessel proposed to be designated exceeds the hull length designated on the license on June 7, 2006, by more than ten feet. However, if such vessel designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to June 7, 2006;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any ~~((two consecutive Washington state coastal crab seasons))~~ one-year period, measured from September 15th to September 15th of the following year, unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the designated vessel on June 7, 2006, the department may change the vessel designation no more than once on or after June 7, 2006, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length overall of a vessel's hull as shown by marine survey or by manufacturer's specifications.

(3) By December 31, 2010, the department must, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this section and, if necessary, recommend any statutory changes to the appropriate committees of the senate and house of representatives.

**Sec. 14.** RCW 77.70.150 and 2005 c 110 s 1 are each amended to read as follows:

(1) A sea urchin dive fishery license is required to take sea urchins for commercial purposes. A sea urchin dive fishery license authorizes the use of only one diver in the water at any time during sea urchin harvest operations. If the same vessel has been designated on two sea urchin dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea urchin dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea urchin dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea urchin dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during the previous year because of a license suspension or revocation by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea urchin dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection,

through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea urchin dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea urchin licenses until the number of licenses is reduced to ~~((twenty five))~~ twenty, and thereafter shall only be used for sea urchin management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea urchin dive fishery license renewal for licenses issued ~~((in))~~ for license years 2000 through ((2010)) 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter,)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea urchin dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea urchin dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea urchin dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000, and two thousand five hundred dollars for any subsequent transfer, ((whether)) occurring in the ((year)) license years 2000 ((or thereafter)) through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty five))~~ twenty natural persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty five))~~ twenty natural persons to be eligible for a sea urchin dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

**Sec. 15.** RCW 77.70.190 and 2005 c 110 s 2 are each amended to read as follows:

(1) A sea cucumber dive fishery license is required to take sea cucumbers for commercial purposes. A sea cucumber dive fishery license authorizes the use of only one diver in the water at any time during sea cucumber harvest operations. If the same vessel has been designated on two sea cucumber dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea cucumber dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea cucumber dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea cucumber dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

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(3) Where a licensee failed to obtain the license during either of the previous two years because of a license suspension by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea cucumber dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection, through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea cucumber dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea cucumber licenses until the number of licenses is reduced to ~~((twenty-five))~~ twenty, and thereafter shall only be used for sea cucumber management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea cucumber dive fishery license renewal for licenses issued in 2000 through ~~((2010))~~ 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter,)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea cucumber dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea cucumber dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea cucumber dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000 and two thousand five hundred dollars for any subsequent transfer ((whether)), occurring in the ((year)) license years 2000 ((or thereafter)) through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty-five))~~ twenty persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty-five))~~ twenty natural persons to be eligible for a sea cucumber dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

**Sec. 16.** RCW 82.27.020 and 2005 c 110 s 3 are each amended to read as follows:

(1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the commercial possession of enhanced food fish as provided in this chapter. The tax is levied upon and shall be collected from the owner of the enhanced food fish whose possession constitutes the taxable event. The taxable event is the first possession in Washington by an owner after the enhanced food fish has been landed. Processing and handling of enhanced food fish by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of enhanced food fish and liable to this tax may deduct from the price paid to the person from which the enhanced food fish (except oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the value of the enhanced food fish at the point of landing.

(4) The tax shall be equal to the measure of the tax multiplied by the rates for enhanced food fish as follows:

(a) Chinook, coho, and chum salmon and anadromous game fish: Five and twenty-five one-hundredths percent;

(b) Pink and sockeye salmon: Three and fifteen one-hundredths percent;

(c) Other food fish and shellfish, except oysters, sea urchins, and sea cucumbers: Two and one-tenth percent;

(d) Oysters: Eight one-hundredths of one percent;

(e) Sea urchins: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea urchin licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter; and

(f) Sea cucumbers: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea cucumber licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter.

(5) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section.

**Sec. 17.** RCW 82.27.070 and 2005 c 110 s 4 are each amended to read as follows:

All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund except for the excise tax on anadromous game fish, which shall be deposited in the state wildlife ((fund, and, during the period)) account. From January 1, 2000, to December 31, ((2010)) 2013, or until the department of fish and wildlife notifies the department that the license reduction goals of the sea urchin or sea cucumber fishery have been met, whichever occurs first, twenty-five forty-sixths of the revenues derived from the excise tax on sea urchins collected under RCW 82.27.020 shall be deposited into the sea urchin dive fishery account created in RCW 77.70.150, and twenty-five forty-sixths of the revenues derived from the excise tax on sea cucumbers collected under RCW 82.27.020 shall be deposited into the sea cucumber dive fishery account created in RCW 77.70.190."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2593.

The motion by Senator Jacobsen carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "resources;" strike the remainder of the title and insert "amending RCW 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870, 77.15.750, 77.55.041, 77.32.430, 77.70.350, 77.70.150, 77.70.190, 82.27.020, and 82.27.070; adding new sections to chapter 77.15 RCW; prescribing penalties; and providing an expiration date."

## MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2593 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2593 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2593 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Holmquist and Stevens

Excused: Senators Fairley, McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 2593 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2651, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Upthegrove, Orwall, Simpson, Nelson, Hudgins and Hasegawa)

Authorizing port districts to participate in activities related to job training and placement.

The measure was read the second time.

## MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2651 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2651.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2651 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig,

Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Honeyford and Morton

Excused: Senators Fairley, McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 2651, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 3046, by House Committee on Judiciary (originally sponsored by Representatives Driscoll, Rodne, Kretz, Ormsby, Wood, Johnson and Parker)

Addressing the dissolution of the assets and affairs of a nonprofit corporation.

The measure was read the second time.

## MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 24.03 RCW to read as follows:

Superior courts may dissolve a nonprofit corporation:

(1) Except as provided in the articles of incorporation or bylaws, in a proceeding by fifty members or members holding at least five percent of the voting power, whichever is less, by one or more directors, or by the attorney general if it is established that:

(a) The directors are deadlocked in the management of the corporate affairs, the members, if any, are unable to break the deadlock, and irreparable injury to the corporation or its mission is threatened or being suffered because of the deadlock;

(b) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have, or otherwise would have, expired;

(d) The corporate assets are being misapplied or wasted; or

(e) The corporation has insufficient assets to continue its activities and it is no longer able to assemble a quorum of directors or members;

(2) In a proceeding by a creditor, if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in a record that the creditor's claim is due and owing and the corporation is insolvent; or

(3) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

**NEW SECTION. Sec. 2.** A new section is added to chapter 24.03 RCW to read as follows:

(1) Venue for a proceeding brought by the attorney general to dissolve a corporation pursuant to section 1 of this act lies in the court specified in RCW 24.03.260. Venue for a proceeding brought by any other party named in section 1 of this act lies in the county where a corporation's principal office (or, if none in this state, its registered office) is or was last located.

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(2) It is not necessary to make directors or members parties to a proceeding to dissolve a nonprofit corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a nonprofit corporation may issue injunctions, appoint a general or custodial receiver with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

(4) A court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint one or more general receivers to wind up and liquidate, or one or more custodial receivers to manage, the affairs of the corporation. The court shall hold a hearing, after giving notice to all parties to the proceeding and any interested persons designated by the court, before appointing a general or custodial receiver. The court appointing a general or custodial receiver has exclusive jurisdiction over the corporation and all of its property wherever located.

(5) The court may require the general or custodial receiver to post bond, with or without sureties, in an amount the court directs.

(6) The court shall describe the powers and duties of the general or custodial receiver in its appointing order, which may be amended from time to time. Among other powers:

(a) The general receiver:

(i) May dispose of all or any part of the assets of the nonprofit corporation wherever located, at a public or private sale, if authorized by the court; and

(ii) May sue and defend in his or her own name as general receiver of the corporation in all courts of this state;

(b) The custodial receiver may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation consistent with its mission and in the best interests of the corporation, and its creditors.

(7) During a general receivership, the court may redesignate the general receiver a custodial receiver, and during a custodial receivership may redesignate the custodial receiver a general receiver, if doing so is consistent with the mission of the nonprofit corporation and in the best interests of the corporation and its creditors.

(8) The court from time to time during the general or custodial receivership may order compensation paid and expense disbursements or reimbursements made to the general or custodial receiver and counsel from the assets of the nonprofit corporation or proceeds from the sale of the assets.

(9) The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(a) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with such requirements;

(c) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(d) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the

extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(e) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this chapter, or where no plan of distribution has been adopted, as the court may direct.

(10) Subsections (4) through (8) of this section do not apply to a church or its integrated auxiliaries.

**NEW SECTION. Sec. 3.** A new section is added to chapter 24.03 RCW to read as follows:

(1) If after a hearing the court determines that one or more grounds for judicial dissolution described in section 1 of this act exist, it may enter a decree dissolving the nonprofit corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the nonprofit corporation's affairs in accordance with this chapter.

**Sec. 4.** RCW 7.60.025 and 2006 c 52 s 1 are each amended to read as follows:

(1) A receiver may be appointed by the superior court of this state in the following instances, but except in any case in which a receiver's appointment is expressly required by statute, or any case in which a receiver's appointment is sought by a state agent whose authority to seek the appointment of a receiver is expressly conferred by statute, or any case in which a receiver's appointment with respect to real property is sought under (b)(ii) of this subsection, a receiver shall be appointed only if the court additionally determines that the appointment of a receiver is reasonably necessary and that other available remedies either are not available or are inadequate:

(a) On application of any party, when the party is determined to have a probable right to or interest in property that is a subject of the action and in the possession of an adverse party, or when the property or its revenue-producing potential is in danger of being lost or materially injured or impaired. A receiver may be appointed under this subsection (1)(a) whether or not the application for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment or other relief;

(b) Provisionally, during the pendency of any action to foreclose upon any lien against or for forfeiture of any interest in real or personal property, or after notice of a trustee's sale has been given under RCW 61.24.040, or after notice of forfeiture has been given under RCW 61.30.040, on application of any person, when the interest in the property that is the subject of foreclosure or forfeiture of the person seeking the receiver's appointment is determined to be probable and either:

(i) The property or its revenue-producing potential is in danger of being lost or materially injured or impaired; or

(ii) The appointment of a receiver with respect to the real or personal property that is the subject of the action, the notice of trustee's sale or notice of forfeiture is provided for by agreement or is reasonably necessary to effectuate or enforce an assignment of rents or other revenues from the property;

(c) After judgment, in order to give effect to the judgment;

(d) To dispose of property according to provisions of a judgment dealing with its disposition;

(e) To the extent that property is not exempt from execution, at the instance of a judgment creditor either before or after the issuance of any execution, to preserve or protect it, or prevent its transfer;

(f) If and to the extent that property is subject to execution to satisfy a judgment, to preserve the property during the pendency of

an appeal, or when an execution has been returned unsatisfied, or when an order requiring a judgment debtor to appear for proceedings supplemental to judgment has been issued and the judgment debtor fails to submit to examination as ordered;

(g) Upon an attachment of real or personal property when the property attached is of a perishable nature or is otherwise in danger of waste, impairment, or destruction, or where the abandoned property's owner has absconded with, secreted, or abandoned the property, and it is necessary to collect, conserve, manage, control, or protect it, or to dispose of it promptly, or when the court determines that the nature of the property or the exigency of the case otherwise provides cause for the appointment of a receiver;

(h) In an action by a transferor of real or personal property to avoid or rescind the transfer on the basis of fraud, or in an action to subject property or a fund to the payment of a debt;

(i) In an action against any person who is not an individual if the object of the action is the dissolution of that person, or if that person has been dissolved, or if that person is insolvent or is not generally paying the person's debts as those debts become due unless they are the subject of bona fide dispute, or if that person is in imminent danger of insolvency;

(j) In accordance with RCW 7.08.030 (4) and (6), in cases in which a general assignment for the benefit of creditors has been made;

(k) In quo warranto proceedings under chapter 7.56 RCW;

(l) As provided under RCW 11.64.022;

(m) In an action by the department of licensing under RCW 18.35.220(3) with respect to persons engaged in the business of dispensing of hearing aids, RCW ~~((18.85.350))~~ 18.85.430 in the case of persons engaged in the business of a real estate broker, associate real estate broker, or real estate salesperson, or RCW 19.105.470 with respect to persons engaged in the business of camping resorts;

(n) In an action under RCW 18.44.470 or 18.44.490 in the case of persons engaged in the business of escrow agents;

(o) Upon a petition with respect to a nursing home in accordance with and subject to receivership provisions under chapter 18.51 RCW;

(p) Under RCW 19.40.071(3), in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(q) Under RCW 19.100.210(1), in an action by the attorney general or director of financial institutions to restrain any actual or threatened violation of the franchise investment protection act;

(r) In an action by the attorney general or by a prosecuting attorney under RCW 19.110.160 with respect to a seller of business opportunities;

(s) In an action by the director of financial institutions under RCW 21.20.390 in cases involving actual or threatened violations of the securities act of Washington or under RCW 21.30.120 in cases involving actual or threatened violations of chapter 21.30 RCW with respect to certain businesses and transactions involving commodities;

(t) In an action for or relating to dissolution of a business corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or 23B.14.320, for dissolution of a nonprofit corporation under ~~((RCW 24.03.270))~~ section 2 of this act, for dissolution of a mutual corporation under RCW 24.06.305, or in any other action for the dissolution or winding up of any other entity provided for by Title 23, 23B, 24, or 25 RCW;

(u) In any action in which the dissolution of any public or private entity is sought, in any action involving any dispute with respect to the ownership or governance of such an entity, or upon the application of a person having an interest in such an entity when the appointment is reasonably necessary to protect the property of the entity or its business or other interests;

(v) Under RCW 25.05.215, in aid of a charging order with respect to a partner's interest in a partnership;

(w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030, in the case of a bank or trust company or, under and subject to RCW 32.24.070 through 32.24.090, in the case of a mutual savings bank;

(x) Under and subject to RCW 31.12.637 and 31.12.671 through 31.12.724, in the case of credit unions;

(y) Upon the application of the director of financial institutions under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable to agricultural lenders, under RCW 31.40.120 in actions to enforce chapter 31.40 RCW applicable to entities engaged in federally guaranteed small business loans, under RCW 31.45.160 in actions to enforce chapter 31.45 RCW applicable to persons licensed as check cashers or check sellers, or under RCW 19.230.230 in actions to enforce chapter 19.230 RCW applicable to persons licensed under the uniform money services act;

(z) Under RCW 35.82.090 or 35.82.180, with respect to a housing project;

(aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce rights under any revenue bonds issued for the purpose of financing industrial development facilities or bonds of the Washington state housing finance commission, or any financing document securing any such bonds;

(bb) Under and subject to RCW 43.70.195, in an action by the secretary of health or by a local health officer with respect to a public water system;

(cc) As contemplated by RCW 61.24.030, with respect to real property that is the subject of nonjudicial foreclosure proceedings under chapter 61.24 RCW;

(dd) As contemplated by RCW 61.30.030(3), with respect to real property that is the subject of judicial or nonjudicial forfeiture proceedings under chapter 61.30 RCW;

(ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW;

(ff) Under RCW 64.34.364(10), in an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(gg) Upon application of the attorney general under RCW 64.36.220(3), in aid of any writ or order restraining or enjoining violations of chapter 64.36 RCW applicable to timeshares;

(hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment or performance of municipal bonds issued with respect to facilities used to abate, control, or prevent pollution;

(ii) Upon the application of the department of social and health services under RCW 74.42.580, in cases involving nursing homes;

(jj) Upon the application of the utilities and transportation commission under RCW 80.28.040, with respect to a water company that has failed to comply with an order of such commission within the time deadline specified therein;

(kk) Under RCW 87.56.065, in connection with the dissolution of an irrigation district;

(ll) Upon application of the attorney general or the department of licensing, in any proceeding that either of them are authorized by statute to bring to enforce Title 18 or 19 RCW; the securities act of Washington, chapter 21.20 RCW; the Washington commodities act, chapter 21.30 RCW; the land development act, chapter 58.19 RCW; or under chapter 64.36 RCW relating to the regulation of timeshares;

(mm) Upon application of the director of financial institutions in any proceeding that the director of financial institutions is authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

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(nn) In such other cases as may be provided for by law, or when, in the discretion of the court, it may be necessary to secure ample justice to the parties.

(2) The superior courts of this state shall appoint as receiver of property located in this state a person who has been appointed by a federal or state court located elsewhere as receiver with respect to the property specifically or with respect to the owner's property generally, upon the application of the person or of any party to that foreign proceeding, and following the appointment shall give effect to orders, judgments, and decrees of the foreign court affecting the property in this state held by the receiver, unless the court determines that to do so would be manifestly unjust or inequitable. The venue of such a proceeding may be any county in which the person resides or maintains any office, or any county in which any property over which the receiver is to be appointed is located at the time the proceeding is commenced.

(3) At least seven days' notice of any application for the appointment of a receiver shall be given to the owner of property to be subject thereto and to all other parties in the action, and to other parties in interest as the court may require. If any execution by a judgment creditor under Title 6 RCW or any application by a judgment creditor for the appointment of a receiver, with respect to property over which the receiver's appointment is sought, is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also shall be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

(4) The order appointing a receiver in all cases shall reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than all of the owner's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver is a general receiver with the authority to take charge over all of the owner's property, wherever located.

(5) The court may condition the appointment of a receiver upon the giving of security by the person seeking the receiver's appointment, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

**NEW SECTION. Sec. 5.** The following acts or parts of acts are each repealed:

(1) RCW 24.03.265 (Jurisdiction of court to liquidate assets and affairs of corporation) and 1986 c 240 s 39 & 1967 c 235 s 54;

(2) RCW 24.03.270 (Procedure in liquidation of corporation by court) and 1967 c 235 s 55; and

(3) RCW 24.03.290 (Decree of involuntary dissolution) and 1967 c 235 s 59.

**NEW SECTION. Sec. 6.** This act is prospective and applies only to actions or proceedings commenced on or after the effective date of this act.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Kline and Carrell spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 10, after line 19, strike all of section 7.

Renumber the sections consecutively and correct any internal references accordingly.

On page 10, line 27 of the title amendment, after "24.03.290", strike "; and declaring an emergency"

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Brown spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 10, after line 19 to the committee striking amendment to Substitute House Bill No. 3046.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 3046.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "corporation;" strike the remainder of the title and insert "amending RCW 7.60.025; adding new sections to chapter 24.03 RCW; creating a new section; repealing RCW 24.03.265, 24.03.270, and 24.03.290; and declaring an emergency."

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 3046 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3046 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3046 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Honeyford

Excused: Senators Fairley, McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 3046 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2747, by House Committee on Human Services (originally sponsored by Representatives Darneille, Cody, Williams, Kagi, Pedersen, Nelson, Dickerson, Hasegawa and Chase)

Limiting the use of restraints on pregnant women or youth.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 72.09.015 and 2009 c 521 s 165 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

(4) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(5) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

(6) "County" means a county or combination of counties.

~~((6))~~ (7) "Department" means the department of corrections.

~~((7))~~ (8) "Earned early release" means earned release as authorized by RCW 9.94A.728.

~~((8))~~ (9) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

~~((9))~~ (10) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

~~((10))~~ (11) "Good conduct" means compliance with department rules and policies.

~~((11))~~ (12) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

~~((12))~~ (13) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopted inmate.

~~((13))~~ (14) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

~~((14))~~ (15) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

~~((15))~~ (16) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

~~((16))~~ (17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(18) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(19) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(20) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

~~((17))~~ (21) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

~~((18))~~ (22) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((19))~~ (23) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(24) "Secretary" means the secretary of corrections or his or her designee.

~~((20))~~ (25) "Significant expansion" includes any expansion into a new product line or service to the class I business that results

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from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

~~((24))~~ (26) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

~~((22))~~ (27) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

(28) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

~~((23))~~ (29) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

~~((24))~~ (30) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

~~((25))~~ (31) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

**NEW SECTION. Sec. 2.** (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer determines that extraordinary circumstances exist and restraints are used, the corrections officer must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer accompanying the pregnant woman or youth shall immediately remove all restraints.

**NEW SECTION. Sec. 3.** (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of women and youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all women or youth who are pregnant, at the time the department assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the correctional facilities, including but not limited to the locations in which medical care is provided within the facilities.

**Sec. 4.** RCW 70.48.020 and 2009 c 411 s 3 are each reenacted and amended to read as follows:

As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Administration" means the direct application of a drug whether by ingestion or inhalation, to the body of an inmate by a practitioner or nonpractitioner jail personnel.

(2) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of medication whether or not there is an agency relationship.

(4) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(5) "Drug" and "legend drug" have the same meanings as provided in RCW 69.41.010.

(6) "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(7) "Health care" means preventive, diagnostic, and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(8) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(9) "Jail" means any holding, detention, special detention, or correctional facility as defined in this section.

(10) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(11) "Major urban" means a county or combination of counties which has a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((4))~~ (12) "Medication" means a drug, legend drug, or controlled substance requiring a prescription or an over-the-counter or nonprescription drug.

~~((12))~~ (13) "Medication assistance" means assistance rendered by nonpractitioner jail personnel to an inmate residing in a jail to facilitate the individual's self-administration of a legend drug or controlled substance or nonprescription medication. "Medication assistance" includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand.

~~((13))~~ (14) "Medium urban" means a county or combination of counties which has a city having a population equal to or greater than ten thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((14))~~ (15) "Nonpractitioner jail personnel" means appropriately trained staff who are authorized to manage, deliver, or administer prescription and nonprescription medication under RCW 70.48.490.

~~((15))~~ (16) "Office" means the office of financial management.

~~((16))~~ (17) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(18) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(19) "Practitioner" has the same meaning as provided in RCW 69.41.010.

~~((17))~~ (20) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(21) "Rural" means a county or combination of counties which has a city having a population less than ten thousand based on the 1978 projections of the office of financial management.

~~((18))~~ (22) "Special detention facility" means a minimum security facility operated by a governing unit primarily designed, staffed, and used for the housing of special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities including, but not necessarily limited to, persons convicted of offenses under RCW 46.61.502 or 46.61.504.

(23) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility or any facility covered by this chapter to another location from the moment she leaves the correctional facility or any facility covered by this chapter to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility or facility covered by this chapter to a transport vehicle and from the vehicle to the other location.

**NEW SECTION. Sec. 5.** (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility or any facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the

third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer or employee of the correctional facility or any facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer or employee of the correctional facility or any facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer or employee must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel or employee of the correctional facility or any facility covered by this chapter shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer or employee accompanying the pregnant woman or youth shall immediately remove all restraints.

**NEW SECTION. Sec. 6.** (1) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall provide notice of the requirements of this act to the appropriate staff at a correctional facility or a facility covered by this chapter. Appropriate staff shall include all medical staff and staff who are involved in the transportation of pregnant women and youth as well as such other staff deemed appropriate.

(2) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause the requirements of this act to be provided to all women and youth of child bearing age at intake. In addition, the jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause a notice containing the requirements of this act to be posted in locations in which medical care is provided within the facilities.

**Sec. 7.** RCW 72.05.020 and 1998 c 269 s 2 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

(2) "Department" means the department of social and health services.

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and

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duration to bring about effacement and progressive dilation of the cervix.

(5) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another.

(6) "Postpartum recovery" means (a) the entire period a youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic.

(7) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(8) "Service provider" means the entity that operates a community facility.

(9) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the institution or community facility to another location from the moment she leaves the institution or community facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the institution or community facility to a transport vehicle and from the vehicle to the other location.

**NEW SECTION. Sec. 8.** (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant youth in an institution or a community facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee of an institution or community facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event an employee of an institution or community facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of an institution or community facility covered by this chapter must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or community facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee accompanying the pregnant youth shall immediately remove all restraints.

**NEW SECTION. Sec. 9.** (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff of the institution or community facility who are involved in the transportation of youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the secretary assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the institutions or community facilities, including but not limited to the locations in which medical care is provided within the facilities.

**Sec. 10.** RCW 13.40.020 and 2009 c 454 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility

operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously

transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(17) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

~~((17))~~ (18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((18))~~ (19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

~~((19))~~ (20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((20))~~ (21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another.

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((24))~~ (24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((25))~~ (25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or

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replace civil remedies or defenses available to the victim or offender;

~~((23))~~ (26) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~(27)~~ "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((24))~~ (28) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((25))~~ (29) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((26))~~ (30) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((27))~~ (31) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((28))~~ (32) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location.

(33) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((29))~~ (34) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((30))~~ (35) "Youth court" means a diversion unit under the supervision of the juvenile court.

**NEW SECTION. Sec. 11.** (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant youth in an institution or detention facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee at an institution or detention facility makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the employee of the institution or detention facility determines that extraordinary circumstances exist and restraints are used, the employee of the institution or detention facility must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of the institution or detention facility must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the

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most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or detention facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee of the institution or detention facility accompanying the pregnant youth shall immediately remove all restraints.

**NEW SECTION. Sec. 12.** (1) The director of the juvenile detention facility shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of youth who are pregnant, as well as such other staff as appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The director shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the facility assumes custody of the person. In addition, the facility shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the detention facilities, including but not limited to the locations in which medical care is provided within the facilities.

**NEW SECTION. Sec. 13.** The Washington association of sheriffs and police chiefs, the department of corrections, the department of social and health services, juvenile rehabilitation administration, and the criminal justice training commission shall jointly develop an informational packet on the requirements of this act. The packet shall be ready for distribution no later than September 1, 2010.

**NEW SECTION. Sec. 14.** No civil liability may be imposed by any court on the county or its jail officers or employees under sections 5 and 6 of this act except upon proof of gross negligence.

**NEW SECTION. Sec. 15.** Sections 2 and 3 of this act are each added to chapter 72.09 RCW.

**NEW SECTION. Sec. 16.** Sections 5, 6, and 13 of this act are each added to chapter 70.48 RCW.

**NEW SECTION. Sec. 17.** Sections 8 and 9 of this act are each added to chapter 72.05 RCW.

**NEW SECTION. Sec. 18.** Sections 11 and 12 of this act are each added to chapter 13.40 RCW."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 2747.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "youth;" strike the remainder of the title and insert "amending RCW 72.09.015, 72.05.020, and 13.40.020; reenacting and amending RCW 70.48.020; adding new sections to chapter 72.09 RCW; adding new sections to chapter 70.48 RCW; adding new sections to chapter 72.05 RCW; adding new sections to chapter 13.40 RCW; and creating a new section."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 2747 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Fraser, Stevens, Honeyford and Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2747 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2747 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2747 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 3:22 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### EVENING SESSION

The Senate was called to order at 4:58 p.m. by President Owen.

#### SECOND READING

HOUSE BILL NO. 2608, by Representatives Nelson, Kirby, Chase, Simpson, Morrell, Maxwell and Moeller

Concerning regulation and licensing of residential mortgage loan servicers and services.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 2608 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2608.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2608 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Holmquist, Honeyford, Morton, Schoesler and Stevens

Excused: Senators Fairley, McCaslin and Pflug

HOUSE BILL NO. 2608, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1956, by House Committee on Local Government & Housing (originally sponsored by Representatives Williams, Chase, Ormsby, Darneille, Van De Wege, Dickerson and Simpson)

Authorizing the housing of homeless persons on property owned or controlled by a church. Revised for 1st Substitute: Authorizing the housing of homeless persons on property owned or controlled by a church. (REVISED FOR ENGROSSED: Authorizing churches to host temporary encampments for homeless persons on property owned or controlled by a church.)

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that there are many homeless persons in our state that are in need of shelter and other services that are not being provided by the state and local governments. The legislature also finds that in many communities, religious organizations play an important role in providing needed services to the homeless, including the provision of shelter upon property owned by the religious organization. By providing such shelter, the religious institutions in our communities perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons.

This act provides guidance to cities and counties in regulating homeless encampments within the community, but still leaves those entities with broad discretion to protect the health and safety of its citizens. It is the hope of this legislature that local governments and religious organizations can work together and utilize dispute resolution processes without the need for litigation.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.01 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A county may not enact an ordinance or regulation or take any other action that:

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(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 35.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A city or town may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**NEW SECTION. Sec. 4.** A new section is added to chapter 35A.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A code city may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**NEW SECTION. Sec. 5.** Nothing in this act is intended to change applicable law or be interpreted to prohibit a county, city, town, or code city from applying zoning and land use regulations allowable under established law to real property owned by a religious organization, regardless of whether the property owned by the religious organization is used to provide shelter or housing to homeless persons.

**NEW SECTION. Sec. 6.** Nothing in this act supersedes a court ordered consent decree or other negotiated settlement between a public agency and religious organization entered into prior to July 1, 2010, for the purposes of establishing a temporary encampment for the homeless as provided in this act."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 1956.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "church;" strike the remainder of the title and insert "adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and creating new sections."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1956 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1956 as amended by the Senate .

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1956 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist, Honeyford, Roach, Schoesler and Sheldon

Excused: Senators Carrell, Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1956 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2533, by House Committee on Human Services (originally sponsored by Representatives Pearson, Hurst, Kelley and Morrell)

Adopting the interstate compact on mental health. Revised for 1st Substitute: Concerning the interstate compact on mental health.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 71.05 RCW to read as follows:

(1) A civil commitment may be initiated under the procedures described in RCW 71.05.150 or 71.05.153 for a person who has been found not guilty by reason of insanity in a state other than Washington and who has fled from detention, commitment, or conditional release in that state, on the basis of a request by the state in which the person was found not guilty by reason of insanity for the person to be detained and transferred back to the custody or care of the requesting state. A finding of likelihood of serious harm or grave disability is not required for a commitment under this section. The detention may occur at either an evaluation and treatment facility or a state hospital. The petition for seventy-two hour detention filed by the designated mental health professional must be accompanied by the following documents:

(a) A copy of an order for detention, commitment, or conditional release of the person in a state other than Washington on the basis of a judgment of not guilty by reason of insanity;

(b) A warrant issued by a magistrate in the state in which the person was found not guilty by reason of insanity indicating that the person has fled from detention, commitment, or conditional release in that state and authorizing the detention of the person within the state in which the person was found not guilty by reason of insanity;

(c) A statement from the executive authority of the state in which the person was found not guilty by reason of insanity requesting that the person be returned to the requesting state and

agreeing to facilitate the transfer of the person to the requesting state.

(2) The person shall be entitled to a probable cause hearing within the time limits applicable to other detentions under this chapter and shall be afforded the rights described in this chapter including the right to counsel. At the probable cause hearing, the court shall determine the identity of the person and whether the other requirements of this section are met. If the court so finds, the court may order continued detention in a treatment facility for up to thirty days for the purpose of the transfer of the person to the custody or care of the requesting state. The court may order a less restrictive alternative to detention only under conditions which ensure the person's safe transfer to the custody or care of the requesting state within thirty days without undue risk to the safety of the person or others.

(3) For the purposes of this section, "not guilty by reason of insanity" shall be construed to include any provision of law which is generally equivalent to a finding of criminal insanity within the state of Washington; and "state" shall be construed to mean any state, district, or territory of the United States."

## MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Stevens to the committee striking amendment be adopted.

On page 2, beginning on line 18 of the title amendment, strike the title amendment and insert the following:

"On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the detention and interstate transfer of persons found not guilty by reason of insanity; and adding a new section to chapter 71.05 RCW.""

Senator Hargrove spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens on page 2, line 18 to the committee striking amendment to Substitute House Bill No. 2533.

The motion by Senator Hargrove carried and the amendment to the committee striking amendment was adopted by voice vote.

Senator Hargrove spoke in favor of adoption of the committee striking amendment as amended.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections as amended to Substitute House Bill No. 2533.

The motion by Senator Hargrove carried and the committee striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "health;" strike the remainder of the title and insert "and adding a new section to chapter 71.05 RCW."

## MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2533 as amended by the Senate was

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advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2533 as amended by the Senate

Voting nay: Senator Oemig

Absent: Senator Brown

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4004, having received the constitutional majority, was declared passed.

ROLL CALL

SECOND READING

The Secretary called the roll on the final passage of Substitute House Bill No. 2533 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2538, by House Committee on Ecology & Parks (originally sponsored by Representatives Uptegrove, Taylor, Eddy, Pedersen, Clibborn, Chase and Springer)

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Regarding high-density urban development.

The measure was read the second time.

MOTION

Excused: Senators Carrell, Fairley, McCaslin and Pflug  
SUBSTITUTE HOUSE BILL NO. 2533 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Fraser moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

SECOND READING

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to encourage high-density, compact, in-fill development and redevelopment within existing urban areas in order to further existing goals of chapter 36.70A RCW, the growth management act, to promote the use of public transit and encourage further investment in transit systems, and to contribute to the reduction of greenhouse gas emissions by: (1) Encouraging local governments to adopt plans and regulations that authorize compact, high-density urban development as defined in section 2 of this act; (2) providing for the funding and preparation of environmental impact statements that comprehensively examine the impacts of such development at the time that the plans and regulations are adopted; and (3) encouraging development that is consistent with such plans and regulations by precluding appeals under chapter 43.21C RCW.

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4004, by House Committee on Transportation (originally sponsored by Representatives Van De Wege, Kessler, Rodne, Liias, Takko, Hurst, Jacks, Hasegawa, Kelley, Eddy, Seaquist, McCoy, Appleton, Hudgins, Morrell, Hope, Sullivan and Nelson)

Naming a certain portion of state route number 110 the "Operations Desert Shield and Desert Storm Memorial Highway."

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.21C RCW to read as follows:

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Joint Memorial No. 4004 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

(1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

Senator Hargrove spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of Substitute House Joint Memorial No. 4004.

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Joint Memorial No. 4004 and the memorial passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 1; Excused, 3.

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach,

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other nonvehicular transportation methods.

(3) A major transit stop is defined as:

(a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) In cities with over five hundred thousand residents, notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all small businesses as defined in RCW 19.85.020, and to all community preservation and development authorities established under chapter 43.167 RCW, located within the subarea to be studied or within one hundred fifty feet of the boundaries of such subarea. The process for community involvement must have the goal of fair treatment and meaningful involvement of all people with respect to the development and implementation of the subarea planning process.

(d) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

(e) Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

(f) Cities with over five hundred thousand residents shall prepare a study that accompanies or is appended to the nonproject environmental impact statement, but must not be part of that statement, that analyzes the extent to which the proposed subarea plan may result in the displacement or fragmentation of existing businesses, existing residents, including people living with poverty, families with children, and intergenerational households, or cultural groups within the proposed subarea plan. The city shall also discuss the results of the analysis at the community meeting.

(g) As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forest

land of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)(g) may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, 2018, a proposed development that is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section and that is environmentally reviewed under subsection (4) of this section may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed ten years from the date of issuance of the final environmental impact statement.

(b) After July 1, 2018, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, 2018. After July 1, 2018, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, 2018.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city may recover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits, as described in subsection (5) of this section, from the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the nonproject environmental impact statement developed under subsection (4) of this section or if potential impacts from a proposed development are not adequately addressed in the nonproject environmental impact statement developed under subsection (4) of this section, the city shall require a supplement environmental impact statement.

**Sec. 3.** RCW 82.02.020 and 2009 c 535 s 1103 are each amended to read as follows:

Except only as expressly provided in chapters 67.28, 81.104, and 82.14 RCW, the state preempts the field of imposing retail sales

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and use taxes and taxes upon parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. Except as provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat. A local government shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.92 RCW. Any such voluntary agreement is subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest to be calculated from the original date the deposit was received by the county and at the same rate applied to tax refunds pursuant to RCW 84.69.100; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW, including reasonable fees that are consistent with section 2(6) of this act.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefitted thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges. However, no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged. Furthermore, these provisions may not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in RCW 36.73.120 nor

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prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.92 RCW.

Nothing in this section prohibits counties, cities, or towns from requiring property owners to provide relocation assistance to tenants under RCW 59.18.440 and 59.18.450.

Nothing in this section limits the authority of counties, cities, or towns to implement programs consistent with RCW 36.70A.540, nor to enforce agreements made pursuant to such programs.

This section does not apply to special purpose districts formed and acting pursuant to Title 54, 57, or 87 RCW, nor is the authority conferred by these titles affected."

Senator Fraser spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Fraser moved that the following amendment by Senators Fraser, Honeyford and Rockefeller to the committee striking amendment be adopted: On page 5, beginning on line 17 of the amendment, after "inconsistent" strike all material through "statement." on line 22, and insert "with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter."

Senator Fraser spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser, Honeyford and Rockefeller on page 5, line 17 to the committee striking amendment to Engrossed Substitute House Bill No. 2538.

The motion by Senator Fraser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Engrossed Substitute House Bill No. 2538.

The motion by Senator Fraser carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "development;" strike the remainder of the title and insert "amending RCW 82.02.020; adding a new section to chapter 43.21C RCW; and creating a new section."

#### MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 2538 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2538 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2538 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2538 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2657, by House Committee on Judiciary (originally sponsored by Representative Pedersen)

Addressing the dissolution of limited liability companies.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 25.15.005 and 2008 c 198 s 4 are each amended to read as follows:

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

(1) "Certificate of formation" means the certificate referred to in RCW 25.15.070, and the certificate as amended.

(2) "Event of dissociation" means an event that causes a person to cease to be a member as provided in RCW 25.15.130.

(3) "Foreign limited liability company" means an entity that is formed under:

(a) The limited liability company laws of any state other than this state; or

(b) The laws of any foreign country that is: (i) An unincorporated association, (ii) formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity, and (iii) not required, in order to transact business or conduct affairs in this state, to be registered or qualified under Title 23B or 24 RCW, or any other chapter of the Revised Code of Washington authorizing the formation of a domestic entity and the registration or qualification in this state of similar entities formed under the laws of a jurisdiction other than this state.

(4) "Limited liability company" and "domestic limited liability company" means a limited liability company having one or more members that is organized and existing under this chapter.

(5) "Limited liability company agreement" means any written agreement of the members, or any written statement of the sole member, as to the affairs of a limited liability company and the conduct of its business which is binding upon the member or members.

(6) "Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

(7) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its certificate of formation that it is to be managed by managers, the person, or persons designated in accordance with RCW 25.15.150(2).

(8) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.115 and who has not been dissociated from the limited liability company.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or a separate legal entity comprised of two or more of these entities, or any other legal or commercial entity.

(10) "Professional limited liability company" means a limited liability company which is organized for the purpose of rendering professional service and whose certificate of formation sets forth that it is a professional limited liability company subject to RCW 25.15.045.

(11) "Professional service" means the same as defined under RCW 18.100.030.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the state of Washington.

**Sec. 2.** RCW 25.15.070 and 1994 c 211 s 201 are each amended to read as follows:

(1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation shall be filed in the office of the secretary of state and set forth:

(a) The name of the limited liability company;

(b) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by RCW 25.15.020;

(c) The address of the principal place of business of the limited liability company;

(d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;

(e) If management of the limited liability company is vested in a manager or managers, a statement to that effect;

(f) Any other matters the members decide to include therein; and

(g) The name and address of each person executing the certificate of formation.

(2) Effect of filing:

(a) Unless a delayed effective date is specified, a limited liability company is formed when its certificate of formation is filed by the secretary of state. A delayed effective date for a certificate of formation may be no later than the ninetieth day after the date it is filed.

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied

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all conditions precedent to the formation (~~(except in a proceeding by the state to cancel the certificate)~~).

(c) A limited liability company formed under this chapter shall be a separate legal entity (~~(, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's certificate of formation)~~).

**Sec. 3.** RCW 25.15.085 and 2002 c 74 s 17 are each amended to read as follows:

(1) Each document required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner, or in compliance with the rules established to facilitate electronic filing under RCW 25.15.007, except as set forth in RCW 25.15.105(4)(b):

(a) Each original certificate of formation must be signed by the person or persons forming the limited liability company;

(b) A reservation of name may be signed by any person;

(c) A transfer of reservation of name must be signed by, or on behalf of, the applicant for the reserved name;

(d) A registration of name must be signed by any member or manager of the foreign limited liability company;

(e) A certificate of amendment or restatement must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members;

(f) A certificate of (~~(cancellation)~~) dissolution must be signed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.295(~~(4)~~) (3);

(g) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, or corporation, the articles of merger must be signed by a person authorized by such foreign limited liability company, limited partnership, or corporation; and

(h) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be signed by any member or manager of the foreign limited liability company.

(2) Any person may sign a certificate, articles of merger, limited liability company agreement, or other document by an attorney-in-fact or other person acting in a valid representative capacity, so long as each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by any person constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

**Sec. 4.** RCW 25.15.095 and 2002 c 74 s 18 are each amended to read as follows:

(1) The original signed copy, together with a duplicate copy that may be either a signed, photocopied, or conformed copy, of the certificate of formation or any other document required to be filed pursuant to this chapter, except as set forth under RCW 25.15.105 or unless a duplicate is not required under rules adopted under RCW 25.15.007, shall be delivered to the secretary of state. If the secretary of state determines that the documents conform to the filing provisions of this chapter, he or she shall, when all required filing fees have been paid:

(a) Endorse on each signed original and duplicate copy the word "filed" and the date of its acceptance for filing;

(b) Retain the signed original in the secretary of state's files; and

(c) Return the duplicate copy to the person who filed it or the person's representative.

(2) If the secretary of state is unable to make the determination required for filing by subsection (1) of this section at the time any documents are delivered for filing, the documents are deemed to have been filed at the time of delivery if the secretary of state subsequently determines that:

(a) The documents as delivered conform to the filing provisions of this chapter; or

(b) Within twenty days after notification of nonconformance is given by the secretary of state to the person who delivered the documents for filing or the person's representative, the documents are brought into conformance.

(3) If the filing and determination requirements of this chapter are not satisfied completely within the time prescribed in subsection (2)(b) of this section, the documents shall not be filed.

(4) Upon the filing of a certificate of amendment (or judicial decree of amendment) or restated certificate in the office of the secretary of state, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation shall be amended or restated as set forth therein. (~~(Upon the filing of a certificate of cancellation (or a judicial decree thereof), or articles of merger which act as a certificate of cancellation, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof) or of articles of merger which act as a certificate of cancellation, as provided for therein, or as specified in RCW 25.15.290, the certificate of formation is canceled.)~~)

**Sec. 5.** RCW 25.15.270 and 2009 c 437 s 1 are each amended to read as follows:

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1)(a) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is not specified in the certificate of formation, the limited liability company's existence will continue until the first to occur of the events described in subsections (2) through (6) of this section. If a dissolution date is specified in the certificate of formation, the certificate of formation may be amended and the existence of the limited liability company may be extended by vote of all the members.

(b) This subsection does not apply to a limited liability company formed under RCW 30.08.025 or 32.08.025;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Unless the limited liability company agreement provides otherwise, ninety days following an event of dissociation of the last remaining member, unless those having the rights of assignees in the limited liability company under RCW 25.15.130(1) have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in RCW 25.15.120(1);

(5) The entry of a decree of judicial dissolution under RCW 25.15.275; or

(6) ~~(the expiration of five years after the effective date of dissolution under RCW 25.15.285 without the reinstatement)~~ administrative dissolution of the limited liability company by the secretary of state under RCW 25.15.285(2), unless the limited liability company is reinstated by the secretary of state under RCW 25.15.290.

**NEW SECTION. Sec. 6.** A new section is added to chapter 25.15 RCW to read as follows:

(1) After dissolution occurs under RCW 25.15.270, the limited liability company may deliver to the secretary of state for filing a certificate of dissolution signed in accordance with RCW 25.15.085.

(2) A certificate of dissolution filed under subsection (1) of this section must set forth:

- (a) The name of the limited liability company; and
- (b) A statement that the limited liability company is dissolved under RCW 25.15.270.

**Sec. 7.** RCW 25.15.290 and 2009 c 437 s 2 are each amended to read as follows:

(1) A limited liability company ~~that has been~~ administratively dissolved under RCW 25.15.285 may apply to the secretary of state for reinstatement within five years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

- (a) ~~((Recite))~~ The name of the limited liability company and the effective date of its administrative dissolution;
- (b) ~~((State))~~ That the ground or grounds for dissolution either did not exist or have been eliminated; and
- (c) ~~((State))~~ That the limited liability company's name satisfies the requirements of RCW 25.15.010.

(2) If the secretary of state determines that ~~((the))~~ an application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice, as provided in RCW 25.15.285(1), of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.

(3) When ~~((the))~~ reinstatement ~~((is))~~ becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume carrying on its ~~((business))~~ activities as if the administrative dissolution had never occurred.

~~((4) If an application for reinstatement is not made within the five-year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the limited liability company's certificate of formation is deemed canceled.))~~

**Sec. 8.** RCW 25.15.293 and 2009 c 437 s 3 are each amended to read as follows:

(1) A limited liability company ~~((voluntarily))~~ dissolved under RCW 25.15.270 (2) or (3) that has filed a certificate of dissolution under section 6 of this act may ((apply to the secretary of state for reinstatement)) revoke its dissolution within one hundred twenty days ~~((after the effective date))~~ of filing its certificate of dissolution. ~~((The application must:~~

- ~~—(a) Recite the name of the limited liability company and the effective date of its voluntary dissolution;~~
- ~~—(b) State that the ground or grounds for voluntary dissolution have been eliminated; and~~
- ~~—(c) State that the limited liability company's name satisfies the requirements of RCW 25.15.010.~~

~~—(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.~~

~~—(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the voluntary dissolution and the limited liability company may resume carrying on its business as if the voluntary dissolution had never occurred.~~

~~—(4) If an application for reinstatement is not made within the one hundred twenty-day period set forth in subsection (1) of this section, or if the application made within this period is not granted, the~~

~~secretary of state shall cancel the limited liability company's certificate of formation.))~~

(2)(a) Except as provided in (b) of this subsection, revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation in some other manner, in which event the dissolution may be revoked in the manner permitted.

(b) If dissolution occurred upon the happening of events specified in the limited liability company agreement, revocation of dissolution must be approved in the manner necessary to amend the provisions of the limited liability company agreement specifying the events of dissolution.

(3) After the revocation of dissolution is approved, the limited liability company may revoke the dissolution and the certificate of dissolution by delivering to the secretary of state for filing a certificate of revocation of dissolution that sets forth:

- (a) The name of the limited liability company and a statement that the name satisfies the requirements of RCW 25.15.010; if the name is not available, the limited liability company must file a certificate of amendment changing its name with the certificate of revocation of dissolution;
- (b) The effective date of the dissolution that was revoked;
- (c) The date that the revocation of dissolution was approved;
- (d) If the limited liability company's managers revoked the dissolution, a statement to that effect;
- (e) If the limited liability company's managers revoked a dissolution approved by the company's members, a statement that revocation was permitted by action by the managers alone pursuant to that approval; and

(f) If member approval was required to revoke the dissolution, a statement that revocation of the dissolution was duly approved by the members in accordance with subsection (2) of this section.

(4) Revocation of dissolution and revocation of the certificate of dissolution are effective upon the filing of the certificate of revocation of dissolution.

(5) When the revocation of dissolution and revocation of the certificate of dissolution are effective, they relate back to and take effect as of the effective date of the dissolution and the limited liability company resumes carrying on its activities as if the dissolution had never occurred.

(6) Revocation of dissolution and revocation of the certificate of dissolution are effective upon the filing of the certificate of revocation of dissolution.

(7) When the revocation of dissolution and revocation of the certificate of dissolution are effective, they relate back to and take effect as of the effective date of the dissolution and the limited liability company resumes carrying on its activities as if the dissolution had never occurred.

**Sec. 9.** RCW 25.15.295 and 1994 c 211 s 806 are each amended to read as follows:

~~((1) Unless otherwise provided in a limited liability company agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members, or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs. The superior courts, upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, his or her legal representative or assignee, and in connection therewith, may appoint a receiver.~~

~~—(2) Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in RCW 25.15.080, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the~~

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~~limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company.~~)

(1) A limited liability company continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its activities, the limited liability company:

(a) May file a certificate of dissolution with the secretary of state to provide notice that the limited liability company is dissolved, preserve the limited liability company's business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited liability company's property, settle disputes, and perform other necessary acts; and

(b) Shall discharge the limited liability company's liabilities, settle and close the limited liability company's activities, and marshal and distribute the assets of the company.

(3) Unless otherwise provided in a limited liability company agreement, the persons responsible for managing the business and affairs of a limited liability company under RCW 25.15.150 are responsible for winding up the activities of a dissolved limited liability company. If a dissolved limited liability company does not have any managers or members, the legal representative of the last person to have been a member may wind up the activities of the dissolved limited liability company, in which event the legal representative is a manager for the purposes of RCW 25.15.155.

(4) If the persons responsible for winding up the activities of a dissolved limited liability company under subsection (3) of this section decline or fail to wind up the limited liability company's activities, a person to wind up the dissolved limited liability company's activities may be appointed by the consent of the transferees owning a majority of the rights to receive distributions as transferees at the time consent is to be effective. A person appointed under this subsection:

(a) Is a manager for the purposes of RCW 25.15.155; and

(b) Shall promptly amend the certificate of formation to state:

(i) The name of the person who has been appointed to wind up the limited liability company; and

(ii) The street and mailing address of the person.

(5) The superior court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited liability company's activities, if:

(a) On application of a member, the applicant establishes good cause; or

(b) On application of a transferee, a limited liability company does not have any managers or members and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) or (4) of this section.

NEW SECTION. Sec. 10. A new section is added to chapter 25.15 RCW to read as follows:

(1) A dissolved limited liability company that has filed a certificate of dissolution with the secretary of state may dispose of the known claims against it by following the procedure described in subsection (2) of this section.

(2) A dissolved limited liability company may notify its known claimants of the dissolution in a record. The notice must:

(a) Specify the information required to be included in a known claim;

(b) Provide a mailing address to which the known claim must be sent;

(c) State the deadline for receipt of the known claim, which may not be fewer than one hundred twenty days after the date the notice is received by the claimant; and

(d) State that the known claim will be barred if not received by the deadline.

(3) A known claim against a dissolved limited liability company is barred if the requirements of subsection (2) of this section are met and:

(a) The known claim is not received by the specified deadline; or

(b) In the case of a known claim that is timely received but rejected by the dissolved limited liability company, the claimant does not commence an action to enforce the known claim against the limited liability company within ninety days after the receipt of the notice of rejection.

(4) For purposes of this section, "known claim" means any claim or liability that either:

(a)(i) Has matured sufficiently, before or after the effective date of the dissolution, to be legally capable of assertion against the dissolved limited liability company, whether or not the amount of the claim or liability is known or determinable; or (ii) is unmatured, conditional, or otherwise contingent but may subsequently arise under any executory contract to which the dissolved limited liability company is a party, other than under an implied or statutory warranty as to any product manufactured, sold, distributed, or handled by the dissolved limited liability company; and

(b) As to which the dissolved limited liability company has knowledge of the identity and the mailing address of the holder of the claim or liability and, in the case of a matured and legally assertable claim or liability, actual knowledge of existing facts that either (i) could be asserted to give rise to, or (ii) indicate an intention by the holder to assert, such a matured claim or liability.

**Sec. 11.** RCW 25.15.303 and 2006 c 325 s 1 are each amended to read as follows:

Except as provided in section 10 of this act, the dissolution of a limited liability company does not take away or impair any remedy available to or against that limited liability company, its managers, or its members for any right or claim existing, or any liability incurred at any time, whether prior to or after dissolution, unless the limited liability company has filed a certificate of dissolution under section 6 of this act, that has not been revoked under RCW 25.15.293, and an action or other proceeding thereon is not commenced within three years after the ((effective date)) filing of the certificate of dissolution. Such an action or proceeding by or against the limited liability company may be prosecuted or defended by the limited liability company in its own name.

**Sec. 12.** RCW 25.15.340 and 1994 c 211 s 907 are each amended to read as follows:

(1) A foreign limited liability company doing business in this state may not maintain any action, suit, or proceeding in this state until it has registered in this state, and has paid to this state all fees and penalties for the years or parts thereof, during which it did business in this state without having registered.

(2) Neither the failure of a foreign limited liability company to register in this state ((does not impair)) nor the issuance of a certificate of cancellation with respect to a foreign limited liability company's registration in this state impairs:

(a) The validity of any contract or act of the foreign limited liability company;

(b) The right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or

(c) ~~((Prevent))~~ The foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(3) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business in this state without registration.

**Sec. 13.** RCW 25.15.805 and 1994 c 211 s 1302 are each amended to read as follows:

(1) The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

(a) Filing of a certificate of formation for a domestic limited liability company or an application for registration of a foreign limited liability company;

(b) Filing of a certificate of ~~((cancellation))~~ dissolution for a domestic ~~((or foreign))~~ limited liability company;

(c) Filing a certificate of cancellation for a foreign limited liability company;

(d) Filing of a certificate of amendment or restatement for a domestic or foreign limited liability company;

~~((d))~~ (e) Filing an application to reserve, register, or transfer a limited liability company name;

~~((e))~~ (f) Filing any other certificate, statement, or report authorized or permitted to be filed;

~~((f))~~ (g) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

(2) In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

(3) All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law.

**NEW SECTION. Sec. 14.** RCW 25.15.080 (Cancellation of certificate) and 1994 c 211 s 203 are each repealed."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 2657.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "companies;" strike the remainder of the title and insert "amending RCW 25.15.005, 25.15.070, 25.15.085, 25.15.095, 25.15.270, 25.15.290, 25.15.293, 25.15.295, 25.15.303, 25.15.340, and 25.15.805; adding new sections to chapter 25.15 RCW; and repealing RCW 25.15.080."

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2657 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2657 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2657 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon,

Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2657 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2789, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chase, Hudgins, Moeller and Simpson)

Authorizing issuance of subpoenas for purposes of agency investigations of underground economy activity. Revised for 1st Substitute: Authorizing issuance of subpoenas for purposes of agency investigations of underground economic activity.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2789 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

Senators Honeyford and Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2789.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2789 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Hewitt, Holmquist, Honeyford, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2789, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2547, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Maxwell, Sullivan, Roach, Kessler, Sells, Kenney, Appleton, Hunter, Pedersen, Upthegrove, Hinkle, Ormsby, Herrera, Kretz, Hasegawa, Campbell, Takko, Springer, Dammeier and Haler)

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Concerning franchise agreements between new motor vehicle dealers and manufacturers.

dealership where the suspension or revocation is for a period in excess of thirty days;

The measure was read the second time.

(3) Not less than one hundred eighty days before the effective date of termination, cancellation, or nonrenewal, where the manufacturer intends to discontinue sale and distribution of the new motor vehicle line.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

**Sec. 3.** RCW 46.96.090 and 1989 c 415 s 9 are each amended to read as follows:

Strike everything after the enacting clause and insert the following:

(1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for termination, cancellation, or nonrenewal under RCW 46.96.070(2) or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the dealer costs for any relocation, substantial alteration, or remodeling of a dealer's facilities required by a manufacturer for the continuance or renewal of a franchise agreement completed within three years of the termination, cancellation, or nonrenewal and:

**"Sec. 1.** RCW 46.96.030 and 1989 c 415 s 3 are each amended to read as follows:

Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, no manufacturer may terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer, unless the manufacturer has complied with the notice requirements of RCW 46.96.070 and an administrative law judge has determined, if requested in writing by the new motor vehicle dealer within the applicable time period specified in RCW 46.96.070 (1), (2), or (3), after hearing, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith, as defined in this chapter, regarding the termination, cancellation, or nonrenewal. Between the time of issuance of the notice required under RCW 46.96.070 and the effective termination, cancellation, or nonrenewal of the franchise under this chapter, the rights, duties, and obligations of the new motor vehicle dealer and the manufacturer under the franchise and this chapter are unaffected, including those under RCW 46.96.200.

(a) A sum equivalent to rent for the unexpired term of the lease or one year, whichever is less, or such longer term as provided in the franchise, if the new motor vehicle dealer is leasing the new motor vehicle dealership facilities from a lessor other than the manufacturer; or

(b) A sum equivalent to the reasonable rental value of the new motor vehicle dealership facilities for one year or until the facilities are leased or sold, whichever is less, if the new motor vehicle dealer owns the new motor vehicle dealership facilities.

**Sec. 2.** RCW 46.96.070 and 1989 c 415 s 7 are each amended to read as follows:

(2) The rental payment required under subsection (1) of this section is only required to the extent that the facilities were used for activities under the franchise and only to the extent the facilities were not leased for unrelated purposes. If the rental payment under subsection (1) of this section is made, the manufacturer is entitled to possession and use of the new motor vehicle dealership facilities for the period rent is paid.

Before the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall give written notification to both the department and the new motor vehicle dealer. For the purposes of this chapter, the discontinuance of the sale and distribution of a new motor vehicle line, or the constructive discontinuance by material reduction in selection offered, such that continuing to retail the line is no longer economically viable for a dealer is, at the option of the dealer, considered a termination, cancellation, or nonrenewal of a franchise. The notice shall be by certified mail or personally delivered to the new motor vehicle dealer and shall state the intention to terminate, cancel, or not renew the franchise, the reasons for the termination, cancellation, or nonrenewal, and the effective date of the termination, cancellation, or nonrenewal. The notice shall be given:

**Sec. 4.** RCW 46.96.105 and 2003 c 21 s 2 are each amended to read as follows:

(1) Not less than ninety days before the effective date of the termination, cancellation, or nonrenewal;

(1) Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or service on the manufacturer's products. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for any warranty work or service, including parts, labor, and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products. The schedule of compensation must not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty service and repairs, and must not be less than the schedule of compensation for an existing dealer as of the effective date of this section.

(2) Not less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following that constitute good cause for termination, cancellation, or nonrenewal:

(a) The rates charged by the dealer for nonwarranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. A dealer must establish and declare the dealer's average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission. A change in a dealer's established average percentage markup takes effect thirty days following the submission. A manufacturer may not require a dealer to establish average percentage markup by another methodology. A manufacturer may not require information that the dealer believes is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations.

(a) Insolvency of the new motor vehicle dealer or the filing of any petition by or against the new motor vehicle dealer under bankruptcy or receivership law;

(b) Failure of the new motor vehicle dealer to conduct sales and service operations during customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

(c) Conviction of the new motor vehicle dealer, or principal operator of the dealership, of a felony punishable by imprisonment; or

(d) Suspension or revocation of a license that the new motor vehicle dealer is required to have to operate the new motor vehicle

(b) A manufacturer shall compensate a dealer for labor and diagnostic work at the rates charged by the dealer to its retail customers for such work. If a manufacturer can demonstrate that the rates unreasonably exceed those of all other franchised motor vehicle dealers in the same relevant market area offering the same or a competitive motor vehicle line, the manufacturer is not required to honor the rate increase proposed by the dealer. If the manufacturer is not required to honor the rate increase proposed by the dealer, the dealer is entitled to resubmit a new proposed rate for labor and diagnostic work.

(c) A dealer may not be granted an increase in the average percentage markup or labor and diagnostic work rate more than twice in one calendar year.

(2) All claims for warranty work for parts and labor made by dealers under this section shall be submitted to the manufacturer within one year of the date the work was performed. All claims submitted must be paid by the manufacturer within thirty days following receipt, provided the claim has been approved by the manufacturer. The manufacturer has the right to audit claims for warranty work and to charge the dealer for any unsubstantiated, incorrect, or false claims for a period of one year following payment. However, the manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law.

(3) All claims submitted by dealers on the forms and in the manner specified by the manufacturer shall be either approved or disapproved within thirty days following their receipt. The manufacturer shall notify the dealer in writing of any disapproved claim, and shall set forth the reasons why the claim was not approved. Any claim not specifically disapproved in writing within thirty days following receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim.

(4) A manufacturer may not otherwise recover all or any portion of its costs for compensating its dealers licensed in this state for warranty parts and service either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition.

**Sec. 5.** RCW 46.96.110 and 1989 c 415 s 11 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise, (a) an owner may appoint a designated successor to succeed to the ownership of the new motor vehicle dealer franchise upon the owner's death or incapacity, or (b) if an owner who has owned the franchise for not less than five consecutive years, the owner may appoint a designated successor to be effective on a date of the owner's choosing that is prior to the owner's death or disability.

(2) Notwithstanding the terms of a franchise, a designated successor ((of a deceased or incapacitated owner of a new motor vehicle dealer franchise)) described under subsection (1) of this section may succeed to the ownership interest of the owner under the existing franchise, if:

(a) In the case of a designated successor who meets the definition of a designated successor under RCW 46.96.020(5)(a), but who is not experienced in the business of a new motor vehicle dealer, the person will employ an individual who is qualified and experienced in the business of a new motor vehicle dealer to help manage the day-to-day operations of the motor vehicle dealership; or in the case of a designated successor who meets the definition of a designated successor under RCW 46.96.020(5) (b) or (c), the person is qualified and experienced in the business of a new motor vehicle dealer and meets the normal, reasonable, and uniformly applied standards for grant of an application as a new motor vehicle dealer by the manufacturer; and

(b) The designated successor furnishes written notice to the manufacturer of his or her intention to succeed to the ownership of the new motor vehicle dealership within sixty days after the owner's

death or incapacity, or if the appointment is under subsection (1)(b) of this section, at least thirty days before the designated successor's proposed succession; and

(c) The designated successor agrees to be bound by all terms and conditions of the franchise.

(3) The manufacturer may request, and the designated successor shall promptly provide, such personal and financial information as is reasonably necessary to determine whether the succession should be honored.

(4) A manufacturer may refuse to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor if the manufacturer establishes that good cause exists for its refusal to honor the succession. If the designated successor ((of a deceased or incapacitated owner)) of a new motor vehicle dealer franchise fails to meet the requirements set forth in subsections (2)(a), (b), and (c) of this section, good cause for refusing to honor the succession is presumed to exist. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor, the manufacturer shall serve written notice on the designated successor and on the department of its refusal to honor the succession no earlier than sixty days from the date the notice is served. The notice must be served not later than sixty days after the manufacturer's receipt of:

(a) Notice of the designated successor's intent to succeed to the ownership interest of the new motor vehicle dealer's franchise; or

(b) Any personal or financial information requested by the manufacturer.

(5) The notice in subsection (4) of this section shall state the specific grounds for the refusal to honor the succession. If the notice of refusal is not timely and properly served, the designated successor may continue the franchise in full force and effect, subject to termination only as otherwise provided under this chapter.

(6) Within twenty days after receipt of the notice or within twenty days after the end of any appeal procedure provided by the manufacturer, whichever is greater, the designated successor may file a petition with the department protesting the refusal to honor the succession. The petition shall contain a short statement setting forth the reasons for the designated successor's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not terminate or otherwise discontinue the existing franchise until the administrative law judge has held a hearing and has determined that there is good cause for refusing to honor the succession. If an appeal is taken, the manufacturer shall not terminate or discontinue the franchise until the appeal to superior court is finally determined or until the expiration of one hundred eighty days from the date of issuance of the administrative law judge's written decision, whichever is less. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

(7) The manufacturer has the burden of proof to show that good cause exists for the refusal to honor the succession.

(8) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a protest is filed.

(9) The administrative law judge shall conduct any hearing concerning the refusal to the succession as provided in RCW 46.96.050(2) and all hearing costs shall be borne as provided in that subsection. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.96.050(3).

(10) This section does not preclude the owner of a new motor vehicle dealer franchise from designating any person as his or her

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successor by a written, notarized, and witnessed instrument filed with the manufacturer. In the event of a conflict between such a written instrument that has not been revoked by written notice from the owner to the manufacturer and this section, the written instrument governs.

**Sec. 6.** RCW 46.96.185 and 2003 c 21 s 3 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise agreement, a manufacturer, distributor, factory branch, or factory representative, or an agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person controlled by or under common control with a manufacturer, distributor, factory branch, or factory representative, shall not:

(a) Discriminate between new motor vehicle dealers by selling or offering to sell a like vehicle to one dealer at a lower actual price than the actual price offered to another dealer for the same model similarly equipped;

(b) Discriminate between new motor vehicle dealers by selling or offering to sell parts or accessories to one dealer at a lower actual price than the actual price offered to another dealer;

(c) Discriminate between new motor vehicle dealers by using a promotion plan, marketing plan, or other similar device that results in a lower actual price on vehicles, parts, or accessories being charged to one dealer over another dealer;

(d) Discriminate between new motor vehicle dealers by adopting a method, or changing an existing method, for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its dealers that is not fair, reasonable, and equitable. Upon the request of a dealer, a manufacturer, distributor, factory branch, or factory representative shall disclose in writing to the dealer the method by which new motor vehicles, parts, and accessories are allocated, scheduled, or delivered to its dealers handling the same line or make of vehicles;

(e) Discriminate against a new motor vehicle dealer by preventing, offsetting, or otherwise impairing the dealer's right to request a documentary service fee on affinity or similar program purchases. This prohibition applies to, but is not limited to, any promotion plan, marketing plan, manufacturer or dealer employee or employee friends or family purchase programs, or similar plans or programs;

(f) Give preferential treatment to some new motor vehicle dealers over others by refusing or failing to deliver, in reasonable quantities and within a reasonable time after receipt of an order, to a dealer holding a franchise for a line or make of motor vehicles sold or distributed by the manufacturer, distributor, factory branch, or factory representative, a new vehicle, parts, or accessories, if the vehicle, parts, or accessories are being delivered to other dealers, or require a dealer to purchase unreasonable advertising displays or other materials, or unreasonably require a dealer to remodel or renovate existing facilities as a prerequisite to receiving a model or series of vehicles;

((#)) (g) Compete with a new motor vehicle dealer of any make or line by acting in the capacity of a new motor vehicle dealer, or by owning, operating, or controlling, whether directly or indirectly, a motor vehicle dealership in this state. It is not, however, a violation of this subsection for:

(i) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership for a temporary period, not to exceed two years, during the transition from one owner of the dealership to another where the dealership was previously owned by a franchised dealer and is currently for sale to any qualified independent person at a fair and reasonable price. The temporary operation may be extended for one twelve-month period on petition of the temporary operator to the department. The matter will be handled as an adjudicative proceeding under chapter 34.05 RCW.

A dealer who is a franchisee of the petitioning manufacturer or distributor may intervene and participate in a proceeding under this subsection (1)((#)) (g)(i). The temporary operator has the burden of proof to show justification for the extension and a good faith effort to sell the dealership to an independent person at a fair and reasonable price;

(ii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been underrepresented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, and where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. Nothing in this subsection (1)((#)) (g)(ii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with ~~((RCW 46.96.185(1)))~~ (a) through ~~((e))~~ (f) of this subsection;

(iii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. The number of dealerships operated under this subsection (1)((#)) (g)(iii) may not exceed four percent rounded up to the nearest whole number of a manufacturer's total of new motor vehicle dealer franchises in this state. Nothing in this subsection (1)((#)) (g)(iii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with ~~((RCW 46.96.185(1)))~~ (a) through ~~((e))~~ (f) of this subsection;

(iv) A truck manufacturer to own, operate, or control a new motor vehicle dealership that sells only trucks of that manufacturer's line make with a gross vehicle weight rating of 12,500 pounds or more, and the truck manufacturer has been continuously engaged in the retail sale of the trucks at least since January 1, 1993; or

(v) A manufacturer to own, operate, or control a new motor vehicle dealership trading exclusively in a single line make of the manufacturer if (A) the manufacturer does not own, directly or indirectly, in the aggregate, in excess of forty-five percent of the total ownership interest in the dealership, (B) at the time the manufacturer first acquires ownership or assumes operation or control of any such dealership, the distance between any dealership

thus owned, operated, or controlled and the nearest new motor vehicle dealership trading in the same line make of vehicle and in which the manufacturer has no ownership or control is not less than fifteen miles and complies with the applicable provisions in the relevant market area sections of this chapter, (C) all of the manufacturer's franchise agreements confer rights on the dealer of that line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and the manufacturer agree are appropriate, and (D) as of January 1, 2000, the manufacturer had no more than four new motor vehicle dealers of that manufacturer's line make in this state, and at least half of those dealers owned and operated two or more dealership facilities in the geographic territory or area covered by their franchise agreements with the manufacturer;

~~((g))~~ (h) Compete with a new motor vehicle dealer by owning, operating, or controlling, whether directly or indirectly, a service facility in this state for the repair or maintenance of motor vehicles under the manufacturer's new car warranty and extended warranty. Nothing in this subsection ~~(1)((g))~~ (h), however, prohibits a manufacturer, distributor, factory branch, or factory representative from owning or operating a service facility for the purpose of providing or performing maintenance, repair, or service work on motor vehicles that are owned by the manufacturer, distributor, factory branch, or factory representative;

~~((h))~~ (i) Use confidential or proprietary information obtained from a new motor vehicle dealer to unfairly compete with the dealer. For purposes of this subsection ~~(1)((h))~~ (i), "confidential or proprietary information" means trade secrets as defined in RCW 19.108.010, business plans, marketing plans or strategies, customer lists, contracts, sales data, revenues, or other financial information;

~~((i))~~ (j)(i) Terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer based upon any of the following events, which do not constitute good cause for termination, cancellation, or nonrenewal under RCW 46.96.060: (A) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a franchise agreement for the sale or service of another make or line of new motor vehicles~~(-or-)~~; (B) the fact that the new motor vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the manufacturer or distributor ~~((with the prior written approval of the manufacturer or distributor, if the approval was required under the terms of the new motor vehicle dealer's franchise agreement))~~; (C) that the new motor vehicle dealer has or intends to relocate the manufacturer or distributor's make or line of new motor vehicles or service to an existing dealership facility that is within the relevant market area, as defined in RCW 46.96.140, of the make or line to be relocated, except that, in any nonemergency circumstance, the dealer must give the manufacturer or distributor at least sixty days' notice of his or her intent to relocate; or (D) the failure of a franchisee to change the location of the dealership or to make substantial alterations to the use or number of franchises on the dealership premises or facilities.

(ii) Notwithstanding the limitations of this section, a manufacturer may, for separate consideration, enter into a written contract with a dealer to exclusively sell and service a single make or line of new motor vehicles at a specific facility for a defined period of time. The penalty for breach of the contract must not exceed the amount of consideration paid by the manufacturer plus a reasonable rate of interest; ~~((j))~~

~~((k))~~ (k) Coerce or attempt to coerce a motor vehicle dealer to refrain from, or prohibit or attempt to prohibit a new motor vehicle dealer from acquiring, owning, having an investment in, participating in the management of, or holding a franchise agreement for the sale or service of another make or line of new motor vehicles or related products, or establishing another make or line of new motor vehicles or service in the same dealership

facilities, if the prohibition against acquiring, owning, investing, managing, or holding a franchise for such additional make or line of vehicles or products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, is not supported by reasonable business considerations. The burden of proving that reasonable business considerations support or justify the prohibition against the additional make or line of new motor vehicles or products or nonexclusive facilities is on the manufacturer;

(l) Require, by contract or otherwise, a new motor vehicle dealer to make a material alteration, expansion, or addition to any dealership facility, unless the required alteration, expansion, or addition is uniformly required of other similarly situated new motor vehicle dealers of the same make or line of vehicles and is reasonable in light of all existing circumstances, including economic conditions. In any proceeding in which a required facility alteration, expansion, or addition is an issue, the manufacturer or distributor has the burden of proof;

(m) Prevent or attempt to prevent by contract or otherwise any new motor vehicle dealer from changing the executive management of a new motor vehicle dealer unless the manufacturer or distributor, having the burden of proof, can show that a proposed change of executive management will result in executive management by a person or persons who are not of good moral character or who do not meet reasonable, preexisting, and equitably applied standards of the manufacturer or distributor. If a manufacturer or distributor rejects a proposed change in the executive management, the manufacturer or distributor shall give written notice of its reasons to the dealer within sixty days after receiving written notice from the dealer of the proposed change and all related information reasonably requested by the manufacturer or distributor, or the change in executive management must be considered approved; or

(n) Condition the sale, transfer, relocation, or renewal of a franchise agreement or condition manufacturer, distributor, factory branch, or factory representative sales, services, or parts incentives upon the manufacturer obtaining site control, including rights to purchase or lease the dealer's facility, or an agreement to make improvements or substantial renovations to a facility. For purposes of this section, a substantial renovation has a gross cost to the dealer in excess of five thousand dollars.

(2) Subsection (1)(a), (b), and (c) of this section do not apply to sales to a motor vehicle dealer: (a) For resale to a federal, state, or local government agency; (b) where the vehicles will be sold or donated for use in a program of driver's education; (c) where the sale is made under a manufacturer's bona fide promotional program offering sales incentives or rebates; (d) where the sale of parts or accessories is under a manufacturer's bona fide quantity discount program; or (e) where the sale is made under a manufacturer's bona fide fleet vehicle discount program. For purposes of this subsection, "fleet" means a group of fifteen or more new motor vehicles purchased or leased by a dealer at one time under a single purchase or lease agreement for use as part of a fleet, and where the dealer has been assigned a fleet identifier code by the department of licensing.

(3) The following definitions apply to this section:

(a) "Actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, distributor, factory branch, or factory representative, whether paid to the dealer or the ultimate purchaser of the vehicle.

(b) "Control" or "controlling" means (i) the possession of, title to, or control of ten percent or more of the voting equity interest in a person, whether directly or indirectly through a fiduciary, agent, or other intermediary, or (ii) the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities,

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through director control, by contract, or otherwise, except as expressly provided under the franchise agreement.

(c) "Motor vehicles" does not include trucks that are 14,001 pounds gross vehicle weight and above or recreational vehicles as defined in RCW 43.22.335.

(d) "Operate" means to manage a dealership, whether directly or indirectly.

(e) "Own" or "ownership" means to hold the beneficial ownership of one percent or more of any class of equity interest in a dealership, whether the interest is that of a shareholder, partner, limited liability company member, or otherwise. To hold an ownership interest means to have possession of, title to, or control of the ownership interest, whether directly or indirectly through a fiduciary, agent, or other intermediary.

(4) A violation of this section is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW. A person aggrieved by an alleged violation of this section may petition the department to have the matter handled as an adjudicative proceeding under chapter 34.05 RCW.

**Sec. 7.** RCW 46.96.200 and 1994 c 274 s 7 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise, a manufacturer shall not (~~unreasonably~~) withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer who does not already hold a franchise with the manufacturer or is capable of being licensed as a new motor vehicle dealer in the state of Washington. A decision or determination made by the administrative law judge as to whether a qualified buyer is capable of being licensed as a new motor vehicle dealer in the state of Washington is not conclusive or determinative of any ultimate determination made by the department of licensing as to the buyer's qualification for a motor vehicle dealer license. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally used by the manufacturer containing the information and reasonable promises required by a manufacturer is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging new motor vehicle dealer, and the department of its refusal to approve the transfer of the franchise no later than sixty days after the date the manufacturer receives the written request from the new motor vehicle dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice shall be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section shall be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section shall state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring new motor vehicle dealer, the new motor vehicle dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition shall contain a short statement setting forth the reasons for the dealer's protest.

Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

~~(5) ((In determining whether the manufacturer unreasonably withheld its approval to the sale, transfer, or exchange, the manufacturer has the burden of proof that it acted reasonably. A manufacturer's refusal to accept or approve a proposed buyer who otherwise meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer, or who otherwise is capable of being licensed as a new motor vehicle dealer in the state of Washington, is presumed to be unreasonable.~~

~~(6))~~ (6)) The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging new motor vehicle dealer and the manufacturer may be parties to the hearing.

~~((7))~~ (6) The administrative law judge shall conduct any hearing as provided in RCW 46.96.050(2), and all hearing costs shall be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging new motor vehicle dealer may appeal the final order of the administrative law judge as provided in RCW 46.96.050(3).

~~((8))~~ (7) This section and RCW 46.96.030 through 46.96.110 apply to all franchises and contracts existing on July 23, 1989, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

~~((9))~~ (8) RCW 46.96.140 through 46.96.190 apply to all franchises and contracts existing on October 1, 1994, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

NEW SECTION. **Sec. 8.** A new section is added to chapter 46.96 RCW to read as follows:

(1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for a termination, cancellation, or nonrenewal under RCW 46.96.070(2), or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the fair market value of the motor vehicle dealer's goodwill for the make or line as of the date immediately preceding any communication to the public or dealer regarding termination. To the extent the franchise agreement provides for the payment or reimbursement to the new motor vehicle dealer in excess of the value specified in this section, the provisions of the franchise agreement control.

(2) The manufacturer shall pay the new motor vehicle dealer the value specified in subsection (1) of this section within ninety days after the date of termination.

NEW SECTION. **Sec. 9.** A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer shall, upon demand, indemnify and hold harmless any existing or former franchisee and the franchisee's successors and assigns from any and all damages sustained and attorneys' fees and other expenses reasonably incurred by the franchisee that result from or relate to any claim made or asserted by a third party against the franchisee to the extent the claim results from any of the following:

(1) The condition, characteristics, manufacture, assembly, or design of any vehicle, parts, accessories, tools, or equipment, or the

selection or combination of parts or components manufactured or distributed by the manufacturer or distributor;

(2) Service systems, procedures, or methods that the franchisor required or recommended the franchisee to use;

(3) Improper use by the manufacturer, its assignees, contractors, representatives, or licensees of nonpublic personal information obtained from a franchisee concerning any consumer, customer, or employee of the franchisee; or

(4) Any act or omission of the manufacturer or distributor for which the franchisee would have a claim for contribution or indemnity under applicable law or under the franchise, irrespective of any prior termination or expiration of the franchise.

**NEW SECTION. Sec. 10.** A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer may not take or threaten to take any adverse action against a new motor vehicle dealer, including charge backs, reducing vehicle allocations, or terminating or threatening to terminate a franchise, because the dealer sold or leased a vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, unless the manufacturer or distributor definitively proves that the dealer knew or reasonably should have known that the customer intended to export or resell the vehicle. A manufacturer or distributor shall, upon demand, indemnify, hold harmless, and defend any existing or former franchisee or franchisee's successors or assigns from any and all claims asserted, or damages sustained and attorneys' fees and other expenses reasonably incurred by the franchisee that result from or relate to any claim made or asserted, by a third party against the franchisee for any policy, program, or other behavior suggested by the manufacturer for sales of vehicles to parties that intend to export a vehicle purchased from the franchisee.

**NEW SECTION. Sec. 11.** A new section is added to chapter 46.96 RCW to read as follows:

A new motor vehicle dealer who is injured in his or her business or property by a violation of this chapter may bring a civil action in the superior court to recover the actual damages sustained by the dealer, together with the costs of the suit, including reasonable attorneys' fees if the new motor vehicle dealer prevails. The new motor vehicle dealer may bring a civil action in district court to recover his or her actual damages, except for damages that exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorneys' fees.

**NEW SECTION. Sec. 12.** A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer or distributor shall not enter into an agreement or understanding with a new motor vehicle dealer that requires the dealer to waive any provisions of this chapter. However, a dealer may, by written contract and for valuable and reasonable separate consideration, waive, limit, or disclaim a manufacturer's obligations or a dealer's rights under RCW 46.96.080, 46.96.090, 46.96.105, 46.96.140, and 46.96.150, if the contract sets forth the specific provisions of this chapter that are waived, limited, or disclaimed. A manufacturer shall not coerce, threaten, intimidate, or require a new motor vehicle dealer, as a condition to granting or renewing a franchise, to enter into such an agreement or understanding.

**NEW SECTION. Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 2547.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "manufacturers;" strike the remainder of the title and insert "amending RCW 46.96.030, 46.96.070, 46.96.090, 46.96.105, 46.96.110, 46.96.185, and 46.96.200; and adding new sections to chapter 46.96 RCW."

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2547 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2547 as amended by the Senate

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2547 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2547 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1966, by Representatives McCoy, Ormsby and Simpson

Adding wheelchair users to the types of individuals for whom drivers must take additional precautions.

The measure was read the second time.

## MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.84.040 and 1997 c 271 s 20 are each amended to read as follows:

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with or without a red tip), a totally or partially blind or hearing impaired pedestrian using a dog guide, ((or an otherwise physically disabled)) a person with physical disabilities using a service animal,

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or a person with a disability using a wheelchair or a power wheelchair as defined in RCW 46.04.415 shall take all necessary precautions to avoid injury to such pedestrian or wheelchair user. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian or wheelchair user. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk(ç) such pedestrian(ç) or wheelchair user crossing or attempting to cross the roadway, if such pedestrian or wheelchair user is using a white cane, using a dog guide, ((ø)) using a service animal, or using a wheelchair or a power wheelchair as defined in RCW 46.04.415. The failure of any such pedestrian or wheelchair user so to signal shall not deprive him or her of the right-of-way accorded him or her by other laws.

**NEW SECTION. Sec. 2.** This act takes effect August 1, 2010."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 1966.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "precautions;" strike the remainder of the title and insert "amending RCW 70.84.040; and providing an effective date."

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1966 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1966 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1966 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

HOUSE BILL NO. 1966 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2396, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Morrell, Hinkle, Driscoll, Campbell, Cody, Van De Wege, Carlyle, Johnson, Simpson, Hurst, O'Brien, Clibborn, Nelson, Maxwell, Conway, McCoy and Moeller)

Concerning emergency cardiac and stroke care. Revised for 2nd Substitute: Regarding emergency cardiac and stroke care.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 2396 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2396.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2396 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SECOND SUBSTITUTE HOUSE BILL NO. 2396, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2841, by House Committee on Health Care & Wellness (originally sponsored by Representatives Hinkle, Cody, Kristiansen, Morrell and Pearson)

Concerning the standard health questionnaire.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.43.018 and 2009 c 42 s 1 are each amended to read as follows:

(1) Except as provided in (a) through (g) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., but the person's employer is exempt under federal law from the requirement to offer such coverage, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan, completion of the standard health questionnaire shall not be a condition of coverage if: (i) The person had at least twenty-four months of continuous basic health plan coverage under chapter 70.47 RCW immediately prior to disenrollment; and (ii) application for coverage is made within ninety days of disenrollment from the basic health plan. A health carrier shall accept an application

without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.

(f) If a person is seeking an individual health benefit plan due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire is not a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(g) If a person is seeking an individual health benefit plan due to their terminating continuation coverage under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of terminating the continuation coverage; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of termination of the continuation coverage and the effective date of the individual coverage applied for is the date the continuation coverage is terminated, or within ninety days thereafter.

(h) If a person is seeking an individual health benefit plan because his or her employer, or former employer, discontinues group coverage due to the closure of the business, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of the employer discontinuing group coverage due to closure of the business; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of discontinuation of group coverage, and the effective date of the individual coverage applied for is the date the group coverage is discontinued, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and

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an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2841.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "questionnaire;" strike the remainder of the title and insert "and amending RCW 48.43.018."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2841 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Parlette spoke in favor of passage of the bill.

MOTION

On motion of Senator Hatfield, Senator Murray was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2841 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2841 as amended by the Senate and the bill passed

the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin, Murray and Pflug

SUBSTITUTE HOUSE BILL NO. 2841 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2016, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Flannigan, Appleton, Hurst, Miloscia and Hunt)

Concerning campaign contribution and disclosure laws.

The measure was read the second time.

MOTION

Senator McDermott moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted. Strike everything after the enacting clause and insert the following:

"PART 1  
GENERAL PROVISIONS

**Sec. 101.** RCW 42.17.020 and 2008 c 6 s 201 are each amended to read as follows:

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

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

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

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

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

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

(6) "Bona fide political party" means:

(a) An organization that has ~~((filed a valid certificate of nomination with))~~ been recognized as a minor political party by the secretary of state ((under chapter 29A.20 RCW)));

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

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

(7) "Depository" means a bank ~~((designated by a candidate or political committee pursuant to RCW 42.17.050)),~~ mutual savings bank, savings and loan association, or credit union doing business in this state.

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

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

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

(b) Announces publicly or files for office;

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

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

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

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

(12) "Commission" means the agency established under RCW 42.17.350 (as recodified by this act).

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind ~~((= PROVIDED, That)).~~ For the purpose of compliance with RCW 42.17.241 (as recodified by this act), ~~((the term))~~ "compensation" ~~((shall))~~ does not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

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

(15)(a) "Contribution" includes:

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

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

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or

electioneering communication prepared by a candidate, a political committee, or its authorized agent;

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

(b) "Contribution" does not include:

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

(ii) Ordinary home hospitality;

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

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

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

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

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

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

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

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

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

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17.040 (as recodified by this act); and

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

A person who performs ministerial functions under this subsection (15)(b)(ix) is not considered an agent of the candidate or committee as long as he or she has no authority to authorize

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expenditures or make decisions on behalf of the candidate or committee.

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

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

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

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

(19) "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

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

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

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

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

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

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

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

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

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

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

(23) "Final report" means the report described as a final report in RCW 42.17.080(2) (as recodified by this act).

(24) "General election" for the purposes of RCW 42.17.640 (as recodified by this act) means the election that results in the election of a person to a state or local office. It does not include a primary.

(25) "Gift(~~(-- is as defined)~~)" has the definition in RCW 42.52.010.

(26) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of (~~RCW 42.17.640 through 42.17.790~~) the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

(27) "Incumbent" means a person who is in present possession of an elected office.

(28) "Independent expenditure" means an expenditure that has each of the following elements:

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

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

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of

or opposition to that candidate, has a value of ~~((five))~~ eight hundred dollars or more. A series of expenditures, each of which is under ~~((five))~~ eight hundred dollars, constitutes one independent expenditure if their cumulative value is ~~((five))~~ eight hundred dollars or more.

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

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

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

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

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

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

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

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

(34) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

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

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

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

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

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

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

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

~~(37) ("Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.~~

~~((38))~~ (38) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((39))~~ (39) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((40))~~ (39) "Primary" for the purposes of RCW 42.17.640 (as recodified by this act) means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

~~((41))~~ (40) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((42))~~ (41) "Public record" ~~((includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives))~~ has the definition in RCW 42.56.010.

~~((43))~~ (42) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

~~((44))~~ (43) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

~~((45))~~ "State" (44) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((46))~~ (45) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

~~((47))~~ (46) "State official" means a person who holds a state office.

~~((48))~~ (47) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate ~~((prior))~~ with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065 (as recodified by this act).

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~~((49) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. —As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.))~~

## PART 2 ELECTRONIC ACCESS

**Sec. 201.** RCW 42.17.367 and 1999 c 401 s 9 are each amended to read as follows:

~~((By February 1, 2000,))~~ The commission shall operate a web site or contract for the operation of a web site that allows access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, ~~((and))~~ 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 ~~(as recodified by this act)~~. ~~((By January 1, 2001, the web site shall allow access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180.))~~ In addition, the commission shall attempt to make available via the web site other public records submitted to or generated by the commission that are required by this chapter to be available for public use or inspection.

**Sec. 202.** RCW 42.17.369 and 2000 c 237 s 3 are each amended to read as follows:

(1) ~~((By July 1, 1999,))~~ The commission shall make available to candidates, public officials, and political committees that are required to file reports under this chapter an electronic filing alternative for submitting financial affairs reports, contribution reports, and expenditure reports ~~((including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(2) ~~((By January 1, 2002,))~~ The commission shall make available to lobbyists and lobbyists' employers required to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 ~~(as recodified by this act)~~ an electronic filing alternative for submitting these reports ~~((including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(3) The commission shall make available to candidates, public officials, political committees, lobbyists, and lobbyists' employers an electronic copy of the appropriate reporting forms at no charge.

**Sec. 203.** RCW 42.17.461 and 2000 c 237 s 5 are each amended to read as follows:

~~((+))~~ The commission shall establish goals that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 ~~(as recodified by this act)~~, that are:

~~((a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and shall be accessible on the commission's web site within seven business days of the commission's receipt of the report; and~~

~~—(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and shall be accessible on the commission's web site within fourteen business days of the actual physical receipt~~

of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.

~~—(2) On January 1, 2001, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:~~

~~—(a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and on the commission's web site within four business days of the commission's receipt of the report; and~~

~~—(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and on the commission's web site within seven business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.~~

~~—(3) On January 1, 2002, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:~~

~~—(a)) (1) Submitted using the commission's electronic filing system must be accessible in the commission's office and on the commission's web site within two business days of the commission's receipt of the report; and~~

~~((b)) (2) Submitted ((in any format or using any method other than as described in (a) of this subsection,)) on paper must be accessible in the commission's office and on the commission's web site within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420 (as recodified by this act), as specified in rule adopted by the commission.~~

**Sec. 204.** RCW 42.17.463 and 1999 c 401 s 3 are each amended to read as follows:

By July 1st of each year ~~((beginning in 2000)),~~ the commission shall calculate the following performance measures, provide a copy of the performance measures to the governor and appropriate legislative committees, and make the performance measures available to the public:

(1) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.040, 42.17.065, 42.17.080, and 42.17.100 ~~(as recodified by this act)~~ and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(2) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.105 ~~(as recodified by this act)~~ and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(3) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180 ~~(as recodified by this act)~~ and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(4) The percentage of candidates, categorized as statewide, ~~((state))~~ legislative, or local, that have used each of the following

methods to file reports under RCW 42.17.080 or 42.17.105 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (c) any other format or method;))~~

(5) The percentage of continuing political committees that have used each of the following methods to file reports under RCW 42.17.065 or 42.17.105 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (c) any other format or method;))~~ and

(6) The percentage of lobbyists and lobbyists' employers that have used each of the following methods to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (c) any other format or method;))~~.

### PART 3 ADMINISTRATION

**Sec. 301.** RCW 42.17.350 and 1998 c 30 s 1 are each amended to read as follows:

(1) ~~((There is hereby established a—""))~~ The public disclosure commission ~~((—" which"))~~ is established. The commission shall be composed of five members ~~((who shall be))~~ appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party.

(2) The term of each member shall be five years. No member is eligible for appointment to more than one full term. Any member may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3) During his or her tenure, a member of the commission is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

(a) Holding or campaigning for elective office;

(b) Serving as an officer of any political party or political committee;

(c) Permitting his or her name to be used in support of or in opposition to a candidate or proposition;

(d) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;

(e) Participating in any way in any election campaign; or

(f) Lobbying, employing, or assisting a lobbyist, except that a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 (as recodified by this act) on matters directly affecting this chapter.

(4) A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his or her predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission.

(5) Three members of the commission shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Members shall be compensated in accordance with RCW 43.03.250 and ~~((in addition))~~ shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created ~~((pursuant to))~~ under the ~~((general))~~ laws of this state.

**Sec. 302.** RCW 42.17.360 and 1973 c 1 s 36 are each amended to read as follows:

The commission shall:

(1) Develop and provide forms for the reports and statements required to be made under this chapter;

(2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;

(3) Compile and maintain a current list of all filed reports and statements;

(4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;

(5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;

(6) Conduct a sufficient number of audits and field investigations to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation;

~~—(7) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and its enforcement by appropriate law enforcement authorities; (and~~

~~—(7))~~ (8) Enforce this chapter according to the powers granted it by law;

(9) Adopt rules governing the arrangement, handling, indexing, and disclosing of those reports required by this chapter to be filed with a county auditor or county elections official. The rules shall:

(a) Ensure ease of access by the public to the reports; and

(b) Include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures;

(10) Adopt rules to carry out the policies of chapter 348, Laws of 2006. The adoption of these rules is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act);

(11) Adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports; and

(12) Maintain and make available to the public and political committees of this state a toll-free telephone number.

**Sec. 303.** RCW 42.17.370 and 1995 c 397 s 17 are each amended to read as follows:

The commission ~~((is empowered to))~~ may:

(1) Adopt, ~~((promulgate;))~~ amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint an executive director and set, within the limits established by the state committee on agency officials' salaries under RCW 43.03.028, the executive director's compensation ~~((of an executive director who))~~. The executive director shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor ~~((shall))~~ may it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

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(3) Prepare and publish ~~((such))~~ reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) ~~((Make from time to time, on its own motion))~~ Conduct, as it deems appropriate, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence, and require the production of any ~~((books, papers, correspondence, memorandums, or other))~~ records relevant ~~((or material for the purpose of))~~ to any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt ~~((and promulgate))~~ a code of fair campaign practices;

(8) ~~((Relieve, by rule,))~~ Adopt rules relieving candidates or political committees of obligations to comply with the election campaign provisions of this chapter ~~((relating to election campaigns))~~, if they have not received contributions nor made expenditures in connection with any election campaign of more than ~~((one))~~ five thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of, and reporting on a quarterly basis, costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. ~~((The term))~~ For the purposes of this subsection, "legislative information~~((s))~~" ~~((for the purposes of this subsection,))~~ means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations ~~((in his or her examination reports))~~ concerning those agencies; and

(10) ~~((After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order~~

~~entered under this section within one year from the date of the entry of the order; and~~

~~—(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;~~

~~—(12))~~ Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

NEW SECTION. Sec. 304. SUSPENSION OR MODIFICATION OF REPORTING REQUIREMENTS. (1) The commission may suspend or modify any of the reporting requirements of this chapter if it finds that literal application of this chapter works a manifestly unreasonable hardship in a particular case and the suspension or modification will not frustrate the purposes of this chapter. The commission may suspend or modify reporting requirements only after a hearing is held and the suspension or modification receives approval from a majority of the commission. The commission shall act to suspend or modify any reporting requirements:

(a) Only if it determines that facts exist that are clear and convincing proof of the findings required under this section; and

(b) Only to the extent necessary to substantially relieve the hardship.

(2) A manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) (as recodified by this act) would be likely to adversely affect the competitive position of any entity in which the person filing the report, or any member of his or her immediate family, holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more.

(3) Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding. No request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted.

(4) Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order.

(5) The commission shall adopt rules governing the proceedings.

Sec. 305. RCW 42.17.690 and 1993 c 2 s 9 are each amended to read as follows:

(1) At the beginning of each even-numbered calendar year, the commission shall increase or decrease ~~((and))~~ the dollar amounts in ~~((this chapter))~~ RCW 42.17.020(28), 42.17.125(3), 42.17.180(1),

42.17.640, 42.17.645, and 42.17.740 (as recodified by this act) based on changes in economic conditions as reflected in the inflationary index ((used by the commission under RCW 42.17.370)) recommended by the office of financial management. The new dollar amounts established by the commission under this section shall be rounded off ((by the commission)) to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since ((December 3, 1992)) July 2008.

(2) The commission may revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter, reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials, the revisions shall equally affect all thresholds within each category. The revisions authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold.

(3) Revisions made in accordance with subsections (1) and (2) of this section shall be adopted as rules under chapter 34.05 RCW.

**Sec. 306.** RCW 42.17.380 and 1982 c 35 s 196 are each amended to read as follows:

~~((1) The office of the secretary of state shall be designated as a place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.~~

~~(2)) The attorney general, through his or her office, shall ((supply such)) provide assistance as ((the commission may require in order)) required by the commission to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter.~~

**Sec. 307.** RCW 42.17.405 and 2006 c 240 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (7) of this section, the reporting provisions of this chapter do not apply to:

(a) Candidates, elected officials, and agencies in political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction((, to));

(b) Political committees formed to support or oppose candidates or ballot propositions in such political subdivisions((,)); or ((to))

(c) Persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file

the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17.030(3) (as recodified by this act) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this chapter may at his or her option file the statement and reports.

(7) The reporting provisions of this chapter apply to a candidate in any political subdivision if the candidate receives or expects to receive five thousand dollars or more in contributions.

**Sec. 308.** RCW 42.17.420 and 1999 c 401 s 10 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ~~((when)) the date of receipt of any properly addressed application, report, statement, notice, or payment required to be made under the provisions of this chapter ((has been deposited postpaid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that)) is the date shown by the post office cancellation mark on the envelope ~~((is the date of mailing)) of the submitted material.~~ The provisions of this section do not apply to reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).~~

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. The commission shall notify the filer of receipt of the electronically filed report. Such notification may be sent by mail, facsimile, or electronic mail. If the notification of receipt of the electronically filed report is not received by the filer, the filer may offer his or her own proof of sending the report, and such proof shall be treated as if it were a receipt sent by the commission. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).

**Sec. 309.** RCW 42.17.450 and 1973 c 1 s 45 are each amended to read as follows:

~~((Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter)) (1) County auditors and county elections officials shall preserve ((them)) filed statements or reports for not less than six years.~~

~~(2) The commission((, however,)) shall preserve ((such)) filed statements or reports for not less than ten years.~~

**CAMPAIGN FINANCE REPORTING**

**Sec. 401.** RCW 42.17.030 and 2006 c 240 s 1 are each amended to read as follows:

The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405 (2) through (5) and (7) (as recodified by this act).

**Sec. 402.** RCW 42.17.040 and 2007 c 358 s 2 are each amended to read as follows:

(1) Every political committee ~~(, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier,)~~ shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name and address of its treasurer and depository;
- (e) A statement whether the committee is a continuing one;
- (f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;
- (g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;
- (h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095 (as recodified by this act), in the event of dissolution;
- (i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080 (as recodified by this act);
- (j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;
- (k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and
- (l) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and

to the appropriate county elections officer within the ten days following the change.

**Sec. 403.** RCW 42.17.050 and 1989 c 280 s 3 are each amended to read as follows:

(1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission and the appropriate county elections officer the name~~((s))~~ and address~~((es))~~ of(~~(:~~

- ~~—(a)) one legally competent individual, who may be the candidate, to serve as a treasurer(, and~~
- ~~—(b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as depository and the name of the account or accounts maintained in it).~~

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and ~~((may designate not more than one additional depository in each other county in which the campaign is conducted. The candidate or political committee))~~ shall file the names and addresses of the deputy treasurers ~~((and additional depositories))~~ with the commission and the appropriate county elections officer.

(3) ~~((A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (a) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates which includes the candidate; or (b) joint fund raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.~~

~~—(4))~~(4) (a) A candidate or political committee may at any time remove a treasurer or deputy treasurer ~~((or change a designated depository)).~~

(b) In the event of the death, resignation, removal, or change of a treasurer~~(,)~~ or deputy treasurer, ~~((or depository,))~~ the candidate or political committee shall designate and file with the commission and the appropriate county elections officer the name and address of any successor.

~~((5))~~(4) No treasurer~~(,)~~ or deputy treasurer~~(, or depository))~~ may be deemed to be in compliance with the provisions of this chapter until his or her name and address is filed with the commission and the appropriate county elections officer.

**NEW SECTION. Sec. 404. DEPOSITORIES.** Each candidate and each political committee shall designate and file with the commission and the appropriate county elections officer the name and address of not more than one depository for each county in which the campaign is conducted in which the candidate's or political committee's accounts are maintained and the name of the account or accounts maintained in that depository on behalf of the candidate or political committee. The candidate or political committee may at any time change the designated depository and shall file with the commission and the appropriate county elections officer the same information for the successor depository as for the original depository. The candidate or political committee may not be deemed in compliance with the provisions of this chapter until the information required for the depository is filed with the commission and the appropriate county elections officer.

**Sec. 405.** RCW 42.17.060 and 1989 c 280 s 4 are each amended to read as follows:

(1) All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees (~~(which)~~ that) support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose(~~(=PROVIDED, That))~~ only if:

- (a) Each such account ((shall)) bears the same name;
- (b) Each such account is followed by an appropriate designation ((which)) that accurately identifies its separate purpose((=AND PROVIDED FURTHER, That)); and
- (c) Transfers of funds ((shall)) that must be reported under RCW 42.17.090(1)((~~4~~ may)) (e) (as recodified by this act) are not ((be)) made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, or tax-exempt securities, or in savings accounts or other similar instruments in financial institutions, or in mutual funds other than the depository(~~(=PROVIDED, That))~~ but only if:

- (a) The commission and the appropriate county elections officer ((is)) are notified in writing of the initiation and the termination of the investment((=PROVIDED FURTHER, That)); and
- (b) The principal of such investment, when terminated together with all interest, dividends, and income derived from the investment ((are)), is deposited in the depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer ((prior to)) before any further disposition or expenditure ((thereof)).

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b) (as recodified by this act), ((which total)) in excess of one percent of the total accumulated contributions received in the current calendar year, or three hundred dollars ((€)), whichever is more((3)), may not be deposited, used, or expended, but shall be returned to the donor((=)) if his or her identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state((=)) and shall be paid to the state treasurer for deposit in the state general fund.

~~((5) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records.))~~

**Sec. 406.** RCW 42.17.065 and 2000 c 237 s 1 are each amended to read as follows:

(1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060 (as recodified by this act).

(2) A continuing political committee shall file ((with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in the county in which the committee treasurer resides)) a report on the tenth day of ((the)) each month detailing ((its activities)) expenditures made and contributions received for the preceding calendar month ((in which the committee has received a contribution or made an expenditure: PROVIDED, That such)). This report ((shall)) need only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars((= PROVIDED FURTHER, That after January 1, 2002, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer)). The report must be filed with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters. If the committee does not have an office or headquarters, the report must be filed in the county where the

committee treasurer resides. However, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer. The report shall be on a form supplied by the commission and shall include the following information:

- (a) The information required by RCW 42.17.090 (as recodified by this act);
- (b) Each expenditure made to retire previously accumulated debts of the committee((=)) identified by recipient, amount, and date of payments;
- (c) ((Such)) Other information ((as)) the commission shall prescribe by rule ((prescribe)).
- (3) If a continuing political committee ((shall)) makes a contribution in support of or in opposition to a candidate or ballot proposition within sixty days ((prior to)) before the date ((on which such)) that the candidate or ballot proposition will be voted upon, ((such continuing political)) the committee shall report pursuant to RCW 42.17.080 (as recodified by this act).

(4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the ((campaign)) treasurer shall cease and there shall be no obligation to make any further reports.

(5) The ((campaign)) treasurer shall maintain books of account, current within five business days, that accurately ((reflecting)) reflect all contributions and expenditures ((on a current basis within five business days of receipt or expenditure)). During the eight days immediately preceding the date of any election((= for which)) that the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17.080(5) (as recodified by this act).

(6) All reports filed pursuant to this section shall be certified as correct by the ((campaign)) treasurer.

(7) The ((campaign)) treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

**Sec. 407.** RCW 42.17.067 and 1989 c 280 s 6 are each amended to read as follows:

(1) Fund-raising activities ((which meet)) meeting the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080 (as recodified by this act).

(2) Standards:

- (a) The activity consists of one or more of the following:
  - (i) ((The retail)) A sale of goods or services sold at a reasonable approximation of the fair market value of each item or service ((sold at the activity)); or
  - (ii) A gambling operation ((which)) that is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or
  - (iii) A gathering where food and beverages are purchased((= where)) and the price of admission or the per person charge for the food and beverages is no more than twenty-five dollars; or
  - (iv) A concert, dance, theater performance, or similar entertainment event ((where)) and the price of admission is no more than twenty-five dollars; or
  - (v) An auction or similar sale ((where)) for which the total fair market value of items donated by any person ((for sale)) is no more than fifty dollars; and
- (b) No person responsible for receiving money at ((such)) the fund-raising activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making ((such)) the payment, together with the amount

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paid to the candidate or committee, are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) ~~((Such))~~ Any other standards ~~((as shall be))~~ established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity ~~((which))~~ that conforms with subsection (2) of this section ~~((shall))~~ must be deposited in the depository within five business days of receipt by the treasurer or deputy treasurer ~~((in the depository))~~.

(4) At the time reports are required under RCW 42.17.080 ~~(as recodified by this act)~~, the treasurer or deputy treasurer making the deposit shall file with the commission and the appropriate county elections officer a report of the fund-raising activity which ~~((shall))~~ must contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17.080 and 42.17.090 ~~(as recodified by this act)~~:

(a) The name and address and the amount contributed ~~((of))~~ by each person ~~((who contributes))~~ contributing goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section~~((:))~~; and

(b) The name and address ~~((of))~~ and the amount paid by each person whose identity can be ascertained, ~~((and the amount paid, from whom were knowingly received payments))~~ who made a contribution to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity.

**Sec. 408.** RCW 42.17.080 and 2008 c 73 s 1 are each amended to read as follows:

(1) In addition to the information required under RCW 42.17.040 and 42.17.050 (as recodified by this act), on the day the treasurer is designated, each candidate or political committee ~~((shall))~~ must file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, ~~((in addition to any statement of organization required under RCW 42.17.040 or 42.17.050,))~~ a report of all contributions received and expenditures made prior to that date, if any.

(2) ~~((At the following intervals))~~ Each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, ~~((and if there is no office or headquarters then))~~ or in the county in which the treasurer resides if there is no office or headquarters, a report containing the information required by RCW 42.17.090 ~~(as recodified by this act)~~ at the following intervals:

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

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

(c) On the tenth day of each month in which no other reports are required to be filed under this section~~((: PROVIDED, That such report shall only be filed))~~ only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

~~((When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final~~

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~~report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.))~~

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date ~~((on which))~~ of the special election ~~((is held))~~, or for the period beginning the first day of the fifth month before the date ~~((on which))~~ of the general election ~~((is held))~~, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds ~~((so deposited))~~ and the amount contributed by each person. However, ~~((contributions of))~~ persons who contribute no more than twenty-five dollars in the aggregate ~~((from any one person may be deposited without identifying the contributor))~~ are not required to be identified in the report. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) If a city requires that candidates or committees for city offices file reports with a city agency, the candidate or treasurer ~~((so filing need not also))~~ complying with the requirement does not need to file the report with the county auditor or elections officer.

(5) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040 ~~(as recodified by this act)~~, the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

(6) ~~((The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.~~

~~((7))~~ All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

~~((8))~~ Copies of all reports filed pursuant to this section shall be readily available for public inspection ~~((for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040))~~ by appointment, pursuant to subsection (5) of this section, at the principal headquarters or, if there is no headquarters, at the address of the

treasurer or such other place as may be authorized by the commission.

~~((9) After January 1, 2002,)~~ (7) A report that is filed with the commission electronically need not also be filed with the county auditor or elections officer.

~~((10) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports.)~~

(8) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(9) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(10) When there is no outstanding debt or obligation, the campaign fund is closed, and the campaign is concluded in all respects or in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there is no obligation to make any further reports.

**Sec. 409.** RCW 42.17.090 and 2003 c 123 s 1 are each amended to read as follows:

~~((4))~~ Each report required under RCW 42.17.080 (1) and (2) (as recodified by this act) must be certified as correct by the treasurer and the candidate and shall disclose the following:

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

~~((b))~~ (2) The name and address of each person who has made one or more contributions during the period, together with the money value and date of ~~((such))~~ each contribution(s) and the aggregate value of all contributions received from each ~~((such))~~ person during the campaign, or in the case of a continuing political committee, the current calendar year ~~((PROVIDED, That)), with the following exceptions:~~

(a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported~~((PROVIDED FURTHER, That the));~~

(b) Income ~~((which))~~ that results from a fund-raising activity conducted in accordance with RCW 42.17.067 (as recodified by this act) may be reported as one lump sum, with the exception of that portion ~~((of such income which was))~~ received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067 ~~((PROVIDED FURTHER, That))~~ (as recodified by this act);

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

(d) The money value of contributions of postage shall be the face value of ~~((such))~~ the postage;

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

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

~~((e))~~ (5) The name and address of each candidate or political committee to which any transfer of funds was made, ~~((together with))~~ including the amounts and dates of ~~((such))~~ the transfers;

~~((f))~~ (6) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty

dollars during the period covered by this report, ~~((and))~~ the amount, date, and purpose of each ~~((such))~~ expenditure ~~((A candidate for state executive or state legislative office or the political committee of such a candidate shall report this information for an expenditure under one of the following categories, whichever is appropriate: (i) Expenditures for the election of the candidate; (ii) expenditures for nonreimbursed public office related expenses; (iii) expenditures required to be reported under (e) of this subsection; or (iv) expenditures of surplus funds and other expenditures. The report of such a candidate or committee shall contain a separate total of expenditures for each category and a total sum of all expenditures. Other candidates and political committees need not report information regarding expenditures under the categories listed in (i) through (iv) of this subsection or under similar such categories unless required to do so by the commission by rule. The report of such an other candidate or committee shall also contain)), and the total sum of all expenditures;~~

~~((g))~~ (7) The name and address of each person ~~((to whom any expenditure was made directly or indirectly to compensate the person))~~ directly compensated for soliciting or procuring signatures on an initiative or referendum petition, the amount of ~~((such))~~ the compensation to each ~~((such))~~ person, and the total ~~((of the))~~ expenditures made for this purpose. Such expenditures shall be reported under this subsection ~~((1)(g) whether the expenditures are or are not also))~~ in addition to what is required to be reported under ~~((f) of this))~~ subsection (6) of this section;

~~((h))~~ (8) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

~~((i))~~ (9) The surplus or deficit of contributions over expenditures;

~~((j))~~ (10) The disposition made in accordance with RCW 42.17.095 (as recodified by this act) of any surplus funds; and

~~((k) Such)~~ (11) Any other information ~~((as shall be))~~ required by the commission by rule in conformance with the policies and purposes of this chapter.

~~((2) The treasurer and the candidate shall certify the correctness of each report.)~~

**Sec. 410.** RCW 42.17.3691 and 2000 c 237 s 4 are each amended to read as follows:

(1) ~~((Beginning January 1, 2002, each candidate or political committee that expended twenty five thousand dollars or more in the preceding year or expects to expend twenty five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.~~

~~((2) Beginning January 1, 2004,))~~ Each candidate or political committee that expended ten thousand dollars or more in the preceding year or expects to expend ten thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369 (as recodified by this act). The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

~~((3))~~ (2) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

**Sec. 411.** RCW 42.17.093 and 2006 c 348 s 6 are each amended to read as follows:

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(1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 (as recodified by this act) shall report as required in this section when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

- (a) Its name and address;
- (b) The purposes of the out-of-state committee;
- (c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;
- (d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if ~~((such))~~ the committee is supporting or opposing the entire ticket of any party, the name of the party;

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

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

(g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than two thousand five hundred fifty dollars to the out-of-state committee during the current calendar year, together with the money value and date of ~~((such))~~ the contributions. Annually, the commission must modify the two thousand five hundred fifty dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce;

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

(i) ~~((Such))~~ Any other information as the commission may prescribe by rule in keeping with the policies and purposes of this chapter.

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

**Sec. 412.** RCW 42.17.100 and 1995 c 397 s 28 are each amended to read as follows:

(1) For the purposes of this section and RCW 42.17.550 ~~((the term))~~ (as recodified by this act), "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090 (as recodified by this act). "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor

organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other ~~((such))~~ independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure) an initial report of all independent expenditures made during the campaign ~~((prior to))~~ before and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent expenditures made since the date of the last report:

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

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

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

~~((4))~~ (4) The report filed pursuant to ~~((paragraph (a) of this))~~ (a) of this section shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

~~((4))~~ (5) All reports filed pursuant to this section shall be certified as correct by the reporting person.

~~((5))~~ (6) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name and address of the person filing the report;

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

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

(d) ~~((Such))~~ Any other information ~~((as shall be required by))~~ the commission may require by rule ((in conformance with the policies and purposes of this chapter)).

**Sec. 413.** RCW 42.17.103 and 2005 c 445 s 7 are each amended to read as follows:

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

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

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

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

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

(c) A detailed description of the expenditure;

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

(e) The amount of the expenditure;

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

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

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, 42.17.100, and 42.17.565 (as recodified by this act) are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 (as recodified by this act).

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

**Sec. 414.** RCW 42.17.105 and 2001 c 54 s 2 are each amended to read as follows:

(1) ~~((Campaign))~~ Treasurers shall prepare and deliver to the commission a special report ~~((regarding any))~~ when a contribution or aggregate of contributions ((which: Is)) totals one thousand dollars or more((:)), is from a single person or entity~~((:))~~, and is received during a special reporting period.

~~((Any))~~ (2) A political committee ((making)) shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity ((which is)) that totals one thousand dollars or more ((shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made)) during a special reporting period.

~~((For the purposes of subsections (1) through (7) of this section:~~

~~—(a) Each of the following intervals is a) (3) An aggregate of contributions includes only those contributions made to or received from a single entity during any one special reporting period. Any~~

subsequent contribution of any size made to or received from the same person or entity during the special reporting period must also be reported.

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

~~(a) The ((interval beginning after the)) period ((covered by)) beginning on the day after the last report required by RCW 42.17.080 and 42.17.090 (as recodified by this act) to be filed before a primary and concluding on the end of the day before that primary; ((and (ii)))~~

~~(b) The ((interval composed of the)) period twenty-one days preceding a general election; and~~

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

~~((2))~~ (5) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

~~((3) Except as provided in subsection (4) of this section, the))~~

(6) Special reports required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report may be transmitted orally by telephone to the commission if the written form of the report is postmarked and mailed to the commission or the electronic filing is transferred to the commission within the delivery periods established in (a) and (b) of this subsection.

~~(a) The special report required of a contribution recipient ((by)) under subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or ((the)) any subsequent contribution ((that must be reported under subsection (2) of this section)) from the same source is received by the candidate or treasurer.~~

~~(b) The special report required of a contributor ((by)) under subsection ((4)) (2) of this section or RCW 42.17.175 (as recodified by this act) shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or ((the)) any subsequent contribution ((that must be reported under subsection (2) of this section)) to the same person or entity is made.~~

~~((4) The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the report is also mailed to the commission and postmarked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.~~

~~—(5))~~ (7) The special report shall include ((at least)):

(a) The amount of the contribution or contributions;

(b) The date or dates of receipt;

(c) The name and address of the donor;

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

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

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~~((6))~~ (8) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

~~((7))~~ (9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175 (as recodified by this act).

~~((8)) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.~~

~~(9))~~ (10) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135 (as recodified by this act).

**Sec. 415.** RCW 42.17.550 and 1993 c 2 s 23 are each amended to read as follows:

A person or entity, other than a party organization making an independent expenditure ~~((by))~~ that consists of mailing one thousand or more identical or nearly identical cumulative pieces of political advertising in a single calendar year shall ~~((r))~~ report that activity. The report must be made within two working days after the date of the mailing, ~~((file a statement))~~ disclosing the number of pieces in the mailing and an example of the mailed political advertising ~~((with))~~, The report must be sent to the election officer of the county ~~((or))~~ of residence ~~((for))~~ of the candidate supported or opposed by the independent campaign expenditure ~~((or))~~. In the case of an expenditure made in support of or in opposition to a ballot proposition, the report must be sent to the county of residence ~~((or))~~ of the person making the expenditure.

**Sec. 416.** RCW 42.17.135 and 1989 c 280 s 13 are each amended to read as follows:

A ~~((candidate or))~~ political committee receiving a contribution earmarked for the benefit of ~~((another))~~ a candidate or another political committee shall:

(1) Report the contribution as required in RCW 42.17.080 and 42.17.090 (as recodified by this act);

(2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission ~~((by rule, which))~~ that identifies the name and address of the person who made the contribution, the candidate or political committee for whose benefit the contribution is earmarked, the amount of the contribution, and the date ~~((on which))~~ that the contribution was received; and

(3) ~~((Notify))~~ Mail or deliver to the commission and the candidate or political committee ~~((for whose benefit))~~ benefiting from the contribution ~~((is earmarked regarding the receipt of the contribution by mailing or delivering to the commission and to the candidate or committee))~~ a copy of the "Earmarked contributions" report within two working days of receipt of the contribution. ~~((Such notice shall be given within two working days of receipt of the contribution.))~~

(4) A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once notification of the contribution is received by the candidate or committee, in the same manner as ~~((the receipt of))~~ any other contribution ~~((is disclosed in reports))~~, as required by RCW 42.17.080 and 42.17.090 (as recodified by this act).

## POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

**Sec. 501.** RCW 42.17.561 and 2005 c 445 s 1 are each amended to read as follows:

(1) The legislature finds that:

~~((1))~~ (a) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

~~((2))~~ (b) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

~~((3))~~ (c) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: ~~((a))~~ (i) Source of support or opposition to those candidates; and ~~((b))~~ (ii) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

~~((4))~~ (d) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

~~((5))~~ (e) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

~~((6))~~ (f) The state ~~((also))~~ has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640 (as recodified by this act). Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

(2) Based upon the findings in this section, chapter 445, Laws of 2005 is narrowly tailored to accomplish the following and is intended to:

(a) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(b) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(c) Reenact and amend the contribution limits in RCW 42.17.640 (7) and (15) (as recodified by this act) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative Measure No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (7) and (15) (as recodified by this act) in light of *McConnell et al. v. Federal Elections*

Commission, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy; and

(d) Authorize the commission to adopt rules to implement chapter 445, Laws of 2005.

**Sec. 502.** RCW 42.17.565 and 2005 c 445 s 3 are each amended to read as follows:

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

(a) Name and address of the sponsor;

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

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

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

(iii) Any other source information required or exempted by the commission by rule;

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

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

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

(f) The amount of the expenditure;

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

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

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

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

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 (as recodified by this act) are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103 (as recodified by this act).

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

**Sec. 503.** RCW 42.17.570 and 2005 c 445 s 4 are each amended to read as follows:

(1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is required to report the electioneering communication expense under RCW 42.17.565 (as recodified by this act).

**Sec. 504.** RCW 42.17.575 and 2005 c 445 s 5 are each amended to read as follows:

(1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under RCW 42.17.565 (as recodified by this act) shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

**Sec. 505.** RCW 42.17.510 and 2005 c 445 s 9 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the ~~((materials))~~ information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party ~~((organization, and all electioneering communications,))~~ must include as part of the communication:

~~(a) The ((following)) statement ((as part of the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate))~~; "No candidate authorized this ad. It is paid for by (name, address, city, state)((-))";

~~(b) If the ((advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included))~~ sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication; and

(c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the

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formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.

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

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

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

(c) Be set apart from any other printed matter.

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

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

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

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

**Sec. 506.** RCW 42.17.520 and 1984 c 216 s 2 are each amended to read as follows:

At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than ~~((the largest))~~ any other picture of the same candidate used in the same advertisement.

**Sec. 507.** RCW 42.17.540 and 1984 c 216 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 ~~((as recodified by this act))~~ shall ~~((rest))~~ be with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to comply with RCW 42.17.510 through 42.17.530 ~~((as recodified by this act))~~ that results from that change.

**Sec. 508.** RCW 42.17.110 and 2005 c 445 s 8 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain documents and books of account that shall be open for public inspection during normal business hours during the campaign and for a period of no less than three years after the date of the applicable election ~~((during normal business hours))~~. The documents and books of account ~~((which))~~ shall specify:

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

(b) The exact nature and extent of the services rendered; and

(c) The ~~((consideration))~~ total cost and the manner of ~~((paying that consideration for such))~~ payment for the services.

(2) ~~At the request of the commission, each~~ commercial advertiser ~~((which must))~~ required to comply with subsection (1) of this section shall deliver to the commission ~~((upon its request))~~ copies of ~~((such))~~ the information ~~((as))~~ that must be maintained and be open for public inspection pursuant to subsection (1) of this section.

**PART 6**

**CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS**

**Sec. 601.** RCW 42.17.610 and 1993 c 2 s 1 are each amended to read as follows:

(1) The people of the state of Washington find and declare that:

~~((4))~~ (a) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

~~((2))~~ (b) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

~~((3))~~ (c) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process.

(2) By limiting campaign contributions, the people intend to:

(a) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(b) Reduce the influence of large organizational contributors; and

(c) Restore public trust in governmental institutions and the electoral process.

**Sec. 602.** RCW 42.17.640 and 2006 c 348 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for ~~((state))~~ legislative office;

(b) Candidates for state office other than ~~((state))~~ legislative office;

(c) Candidates for county office in a county that has over two hundred thousand registered voters;

(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal

facilities and that district has over two hundred thousand registered voters;

(e) Persons holding an office in (a) through (d) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

(f) Caucus political committees;

(g) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a ((state)) legislative office or county office that in the aggregate exceed ((seven)) eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a ((state)) legislative office that in the aggregate exceed one thousand ((four)) six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, or public official in a special purpose district during a recall campaign that in the aggregate exceed ((seven)) eight hundred dollars if for a ((state)) legislative office or county office or one thousand ((four)) six hundred dollars if for a special purpose district office or a state office other than a ((state)) legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ((seventy)) eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ((thirty-five)) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

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

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) ((seventy)) eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political

committee or the governing body of a state organization, or (ii) ((thirty-five)) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ((thirty-five)) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

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

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ((seven)) eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ((three)) four thousand ((five-hundred)) dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790 (as recodified by this act), a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

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

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate

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specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

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

(15) The following contributions are exempt from the contribution limits of this section:

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

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in RCW 42.17.020 or electioneering communications as defined in RCW 42.17.020.

**Sec. 603.** RCW 42.17.645 and 2006 c 348 s 2 are each amended to read as follows:

(1) No person may make contributions to a candidate for judicial office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) This section through RCW 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy will not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

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

(4) The dollar limits in this section must be adjusted according to RCW 42.17.690 (as recodified by this act).

NEW SECTION. **Sec. 604.** **REPORTABLE CONTRIBUTIONS--PREELECTION LIMITATIONS.** (1) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 (as recodified by this act) in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(2) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to

the commission as earmarked contributions under RCW 42.17.135 (as recodified by this act).

**Sec. 605.** RCW 42.17.070 and 2007 c 358 s 3 are each amended to read as follows:

No expenditures may be made or incurred by any candidate or political committee ~~((except on the authority of))~~ unless authorized by the candidate or the person or persons named on the candidate's or committee's registration form ~~((and))~~ . A record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records.

**Sec. 606.** RCW 42.17.095 and 2005 c 467 s 1 are each amended to read as follows:

The surplus funds of a candidate ~~((;))~~ or ~~((of a political committee supporting or opposing a candidate;))~~ a candidate's authorized committee may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) ~~((Transfer the surplus to the candidate's personal account as reimbursement))~~ Using surplus, reimburse the candidate for lost earnings incurred as a result of that candidate's election campaign. ~~((Such))~~ Lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's ~~((political))~~ authorized committee. The committee shall ~~((include))~~ maintain a copy of ~~((such))~~ this record ~~((when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090))~~ in accordance with RCW 42.17.080(6) (as recodified by this act);

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund, the ~~((oral history))~~ Washington state legacy project, state library, and archives account under RCW 43.07.380, or the legislative international trade account under RCW ~~((44.04.270))~~ 43.15.050, as specified by the candidate or political committee; or

(6) Hold the surplus in the ~~((campaign))~~ depository or depositories designated in accordance with ~~((RCW 42.17.050))~~ section 404 of this act for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090 ~~((--PROVIDED, That))~~ (as recodified by this act). If the candidate subsequently announces or publicly files for office, the appropriate information ~~((as appropriate is))~~ must be reported to the commission in accordance with RCW 42.17.040 through 42.17.090 (as recodified by this act). If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17.090 (as recodified by this act). The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter.

**NEW SECTION. Sec. 607.** CANDIDATES' POLITICAL COMMITTEES--LIMITATIONS. A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (1) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates that includes the candidate; or (2) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

**Sec. 608.** RCW 42.17.125 and 1995 c 397 s 29 are each amended to read as follows:

Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 (as recodified by this act) may only be ~~((transferred))~~ paid to ~~((the personal account of))~~ a candidate, or ~~((of))~~ a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or ~~((loans))~~ payments to cover lost earnings incurred as a result of campaigning or services performed for the political committee. ~~((Such))~~ Lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record ~~((thereof))~~ shall be maintained by the ~~((individual))~~ candidate or the ~~((individual's political))~~ candidate's authorized committee in accordance with RCW 42.17.080 (as recodified by this act). ~~((The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.))~~

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090 (as recodified by this act).

(3) Repayment of loans made by the individual to political committees ~~((which repayment))~~ shall be reported pursuant to RCW 42.17.090 (as recodified by this act). However, contributions may not be used to reimburse a candidate for loans totaling more than ~~((three))~~ four thousand seven hundred dollars made by the candidate to the candidate's own ~~((political))~~ authorized committee ~~((or campaign)).~~

**Sec. 609.** RCW 42.17.660 and 2005 c 445 s 12 are each amended to read as follows:

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit or branch of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the trade association, labor

union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act).

**Sec. 610.** RCW 42.17.720 and 1995 c 397 s 22 are each amended to read as follows:

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's ~~((political))~~ authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter.

**Sec. 611.** RCW 42.17.740 and 1995 c 397 s 23 are each amended to read as follows:

(1) A person may not make a contribution of more than ~~((fifty))~~ eighty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee.

**Sec. 612.** RCW 42.17.790 and 1995 c 397 s 27 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's ~~((political))~~ authorized committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate ~~((for public office))~~ is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general election ~~((s))~~ for which the candidate ~~((for public office))~~ is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17.095 (as recodified by this act).

**Sec. 613.** RCW 42.17.680 and 2002 c 156 s 1 are each amended to read as follows:

(1) No employer or labor organization may increase the salary of an officer or employee, or ~~((give an emolument to))~~ compensate an officer, employee, or other person or entity, with the intention that the increase in salary, or the ~~((emolument))~~ compensation, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or

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oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

**PART 7  
PUBLIC OFFICIALS', EMPLOYEES', AND AGENCIES'  
CAMPAIGN  
RESTRICTIONS, PROHIBITIONS, AND REPORTING**

**Sec. 701.** RCW 42.17.130 and 2006 c 215 s 2 are each amended to read as follows:

No elective official nor any employee of his (~~for her~~) or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.

**Sec. 702.** RCW 42.17.245 and 2005 c 274 s 282 are each amended to read as follows:

After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission:

(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period (~~(= PROVIDED, That)~~). The state treasurer shall disclose the highest balance information only upon a public records request under chapter 42.56 RCW. The statement or report required by this section shall be filed either with the statement required under RCW 42.17.240 (as recodified by this act) or separately.

NEW SECTION. **Sec. 703.** No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, shown, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate. If the official or officer does not control the broadcast, showing, or distribution of a public service announcement in which he or she speaks or appears, then the official or officer shall contractually limit the use of the public service announcement to be consistent with this section prior to participating in the public service announcement. This section does not apply to public service announcements that are part of the regular duties of the office that only mention or visually display the office or office seal or logo and do not mention or visually display the name of the official or officer in the announcement.

**PART 8  
LOBBYING DISCLOSURE AND RESTRICTIONS**

**Sec. 801.** RCW 42.17.150 and 1987 c 201 s 1 are each amended to read as follows:

(1) Before (~~doing any~~) lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, (~~showing~~) that includes the following information:

(a) (~~His~~) The lobbyist's name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of (~~his~~) the lobbyist's employment;

(d) (~~His~~) The compensation to be received for lobbying (~~how much he is~~), the amount to be paid for expenses, and what expenses are to be reimbursed;

(e) Whether the (~~person from whom he receives said compensation employs him~~) lobbyist is employed solely as a lobbyist or whether (~~he~~) the lobbyist is a regular employee

performing services for his or her employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects ~~((of his legislative interest))~~ to be lobbied;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for ~~((his services as a lobbyist))~~ lobbying shall file a separate notice of representation ~~((with respect to))~~ for each ((such)) person ~~((; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person)).~~ However, if two or more persons are jointly paying or contributing to the payment of the lobbyist, the lobbyist may file a single statement detailing the name, business address, and occupation of each person paying or contributing and the respective amounts to be paid or contributed.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall ~~((;))~~ file with the commission an amended registration statement within one week of ~~((such))~~ the change, modification, or termination ~~((; furnish full information regarding the same by filing with the commission an amended registration statement)).~~

(4) Each registered lobbyist ~~((who has registered))~~ shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year ~~((; and))~~. Failure to do so ~~((shall))~~ terminates ((his)) the lobbyist's registration.

**Sec. 802.** RCW 42.17.155 and 1995 c 397 s 6 are each amended to read as follows:

Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. ~~((Such))~~ The photograph and information shall be published by the commission at least biennially in a booklet form ~~((by the commission))~~ for distribution to legislators and the public.

**Sec. 803.** RCW 42.17.160 and 1998 c 55 s 3 are each amended to read as follows:

The following persons and activities ~~((shall be))~~ are exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200 (as recodified by this act):

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist ~~((; PROVIDED, Such)), if the~~ person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at his or her option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts ~~((thereof))~~ of four days during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars ~~((; PROVIDED, That)).~~ The commission shall ~~((promulgate regulations))~~ adopt rules to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at his or her option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17.190(1) (as recodified by this act), members of the legislature;

(9) Except as provided by RCW 42.17.190(1) (as recodified by this act), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(5) (as recodified by this act).

**Sec. 804.** RCW 42.17.170 and 1995 c 397 s 33 are each amended to read as follows:

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

(2) ~~((Each such))~~ The monthly ~~((periodic))~~ report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by ~~((such))~~ the lobbyist or on behalf of ~~((such))~~ the lobbyist by the lobbyist's employer during the period covered by the report. ~~((Such))~~ Expenditure totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons ~~((in the group partaking in or of such))~~ taking part in the entertainment, along with the dollar amount attributable to each person, including ~~((any portion thereof attributable to))~~ the lobbyist's ~~((participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants.~~

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

~~(i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;~~

~~(ii) Any expenses incurred for his or her own living accommodations;~~

~~(iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;~~

~~(iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance)) portion.~~

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

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

(d) The subject matter of proposed legislation or other legislative activity or rule((-)) making under chapter 34.05 RCW, the state administrative procedure act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2) (as recodified by this act).

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

~~((f))~~ (f) A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010((9)) (10) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

~~((g))~~ (f) The total expenditures ~~((made))~~ paid or incurred during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise~~((-- As used in this subsection, "expenditures" includes amounts paid or incurred during the reporting period))~~, for (i) political advertising as defined in RCW 42.17.020 (as recodified by this act); and (ii) public relations, telemarketing, polling, or similar activities if ~~((such))~~ the activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) ~~((If a state elected official or a member of such an official's immediate family is identified by a lobbyist in such a report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission))~~ Lobbyists are not required to report the following:

(a) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(b) Any expenses incurred for his or her own living accommodations;

(c) Any expenses incurred for his or her own travel to and from hearings of the legislature;

(d) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. Lobbyist reports are subject to audit by the commission.

**Sec. 805.** RCW 42.17.172 and 1993 c 2 s 32 are each amended to read as follows:

(1) When a listing or a report of contributions is made to the commission under RCW 42.17.170(2)(c) (as recodified by this act), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

(2) If a state elected official or a member of the official's immediate family is identified by a lobbyist in a lobbyist report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(10) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

**Sec. 806.** RCW 42.17.175 and 2001 c 54 s 3 are each amended to read as follows:

Any lobbyist registered under RCW 42.17.150 (as recodified by this act), any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that is one thousand dollars or more during a special reporting period, as specified in RCW 42.17.105 (as recodified by this act), before a primary or general election~~((-- as such period is specified in RCW 42.17.105(1)--))~~ shall file one or more special reports ~~((for the contribution or aggregate of contributions and for subsequent contributions made during that period under the same circumstances))~~ in the same manner and to the same extent that a contributing political committee must file ~~((such a report or reports))~~ under RCW 42.17.105 (as recodified by this act). ~~((Such a special report shall be filed in the same manner provided under RCW 42.17.105 for a special report of a contributing political committee--))~~

**Sec. 807.** RCW 42.17.180 and 1993 c 2 s 27 are each amended to read as follows:

(1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than ~~((ten))~~ sixteen thousand dollars or independent expenditures aggregating to more than ~~((five))~~ eight hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of ~~((five))~~ eight hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in

RCW 42.17.241(2) (as recodified by this act), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of his or her immediate family to whom the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, ~~((the term))~~ "expenditure" shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by ~~((such))~~ the person reporting for each ~~((such))~~ lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any statewide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) ~~((Such))~~ Any other information ~~((as))~~ the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution ~~((which))~~ that is made through a registered lobbyist and reportable under RCW 42.17.170 (as recodified by this act).

**Sec. 808.** RCW 42.17.190 and 1995 c 397 s 7 are each amended to read as follows:

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying ~~((: PROVIDED))~~. However, this does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations ~~((which))~~ that are deemed necessary for the efficient

conduct of the public business or actually made in the proper performance of their official duties ~~((: PROVIDED FURTHER, That))~~. This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency ~~((: PROVIDED, That))~~. Public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, ~~((the term))~~ "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication ~~((which))~~ that has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130 (as recodified by this act) and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities ~~((which))~~ that are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17.130 (as recodified by this act) and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district ~~((which))~~ that expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection ~~((the term))~~, "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

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(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official (~~PROVIDED, That~~). The total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington (~~do~~) may not exceed fifteen dollars for any three-month period (~~PROVIDED FURTHER, That~~). The exemption under this subsection (5)(d)(v)(B) is in addition to the exemption provided in (d)(v)(A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section, any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission (~~is~~) that elected officials, officers, or employees who, on behalf of any such local agency, engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170 (as recodified by this act). Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180 (as recodified by this act).

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs (~~which~~) that relate only indirectly or incidentally to lobbying or (~~which~~) that are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.

**Sec. 809.** RCW 42.17.200 and 1990 c 139 s 5 are each amended to read as follows:

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17.170 (as recodified by this act) or by a candidate or political committee under RCW 42.17.065 or 42.17.080 (as recodified by this act), exceeding (~~five hundred~~) one thousand dollars in the aggregate within any three-month period or exceeding (~~two~~) five hundred dollars in the aggregate within any

one-month period in presenting a program (~~addressed~~) to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall (~~be required to~~) register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign (~~which totals shall be~~) segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount (~~thereof~~) paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission (~~which reports shall be filed~~) by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report (~~which notice~~). The final report shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

**Sec. 810.** RCW 42.17.210 and 1973 c 1 s 21 are each amended to read as follows:

If any person registered or required to be registered as a lobbyist (~~under this chapter employs~~), or (~~is~~) any employer of any person registered or required to be registered as a lobbyist (~~under this chapter~~), employs (~~any~~) a member or an employee of the legislature, (~~or any~~) a member of (~~any~~) a state board or commission, (~~or any employee of the legislature~~), or (~~any~~) a full-time state employee, (~~if such~~) and that new employee (~~shall~~) remains in the partial employ of the state (~~or any agency thereof, then~~), the new employer (~~shall~~) must file within fifteen days after employment a statement (~~under oath~~) with the commission, signed under oath, setting out the nature of the employment, the name of the person (~~to be paid thereunder~~) employed, and the amount of pay or consideration (~~to be paid thereunder~~). The statement shall be filed within fifteen days after the commencement of such employment.

**Sec. 811.** RCW 42.17.220 and 1973 c 1 s 22 are each amended to read as follows:

It (~~shall be~~) is a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon the condition that such a person must register as a lobbyist as provided by this chapter (~~, and such person does in fact so register as soon as practicable~~).

**Sec. 812.** RCW 42.17.230 and 1987 c 201 s 2 are each amended to read as follows:

~~(1) A person required to register as a lobbyist under (this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:~~

~~— (1) Such persons shall obtain and preserve all) RCW 42.17.150 (as recodified by this act) shall substantiate financial reports required to be made under this chapter with accounts, bills, receipts, books, papers, and other necessary documents (necessary to substantiate the financial reports required to be made under this chapter). All such documents must be obtained and preserved for a period of at least five years from the date of (the) filing (of) the statement containing such items (which accounts, bills, receipts, books, papers, and documents) and shall be made available for inspection by the commission at any time (PROVIDED, That if a lobbyist is required under). If the terms of (his) the lobbyist's employment contract (to turn any) require that these records be turned over to his or her employer, responsibility for the preservation and inspection of (such) these records under this subsection shall (rest) be with such employer.~~

~~(2) (In addition,) A person required to register as a lobbyist under RCW 42.17.150 (as recodified by this act) shall not:~~

~~(a) Engage in any lobbying activity (as a lobbyist) before registering as (such) a lobbyist;~~

~~(b) Knowingly deceive or attempt to deceive (any) a legislator (as to any fact) regarding the facts pertaining to any pending or proposed legislation;~~

~~(c) Cause or influence the introduction of (any) a bill or amendment (thereto) to that bill for the purpose of (thereafter) later being employed to secure its defeat;~~

~~(d) Knowingly represent an interest adverse to (any of) his or her employer(s) without (first) full disclosure of the adverse interest to the employer and obtaining (such) the employer's written consent (thereto after full disclosure to such employer of such adverse interest);~~

~~(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator (by reason of such) due to the legislator's position (with respect to, or his vote upon,) or vote on any pending or proposed legislation;~~

~~(f) Enter into any agreement, arrangement, or understanding (according to which his or her) in which any portion of his or her compensation (or any portion thereof) is or will be contingent upon (the) his or her success (of any attempt to influence) in influencing legislation.~~

~~(3) A violation by a lobbyist of this section shall be cause for revocation of his or her registration, and may subject the lobbyist and the lobbyist's employer, if the employer aids, abets, ratifies, or confirms the violation, to other civil liabilities as provided by this chapter.~~

## PART 9

### PERSONAL FINANCIAL AFFAIRS REPORTING BY CANDIDATES AND PUBLIC OFFICIALS

**Sec. 901.** RCW 42.17.240 and 1995 c 397 s 8 are each amended to read as follows:

(1) After January 1st and before April 15th of each year, every elected official and every executive state officer shall (~~(after January 1st and before April 15th of each year)~~) file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office (~~(expires immediately after)~~) ends on December 31st shall file the statement required to be filed by this section for the final year (~~(that ended on that December 31st)~~) of his or her term.

(2) Within two weeks of becoming a candidate, every candidate shall (~~(within two weeks of becoming a candidate)~~) file with the commission a statement of financial affairs for the preceding twelve months.

(3) Within two weeks of appointment, every person appointed to a vacancy in an elective office or executive state officer position shall (~~(within two weeks of being so appointed)~~) file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17.130 (as recodified by this act) or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer.

**Sec. 902.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to read as follows:

For the purposes of RCW 42.17.240 (as recodified by this act), (~~(the term)~~) "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, (~~(the administrator of the Washington basic health plan,)~~) the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of commerce, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office,

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the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, ~~((committee for deferred compensation,))~~ Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, ~~((each member of the Washington health services commission,))~~ higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, ~~((recreation and conservation funding board,))~~ state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, ~~((marine oversight board,))~~ Pacific Northwest electric power and conservation planning council, parks and recreation commission, board of pilotage commissioners, pollution control hearings board, public disclosure commission, ~~((public pension commission,))~~ shorelines hearings board, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, ~~((Washington state maritime commission,))~~ Washington personnel resources board, Washington ~~((public power supply system))~~ energy northwest executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

**Sec. 903.** RCW 42.17.241 and 2008 c 6 s 202 are each amended to read as follows:

(1) The statement of financial affairs required by RCW 42.17.240 ~~(as recodified by this act)~~ shall disclose the following information for the reporting individual and each member of his or her immediate family:

(a) Occupation, name of employer, and business address; ~~((and))~~

(b) Each bank ~~((or))~~ account, savings account ~~((or))~~, and insurance policy in which ~~((any such person or persons owned))~~ a direct financial interest ~~((that exceeded five))~~ was held that exceeds twenty thousand dollars at any time during the reporting period; each other item of intangible personal property in which ~~((any such person or persons owned))~~ a direct financial interest ~~((the value of which exceeded five hundred))~~ was held that exceeds two thousand dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each ~~((such))~~ direct financial interest during the reporting period; ~~((and))~~

(c) The name and address of each creditor to whom the value of ~~((five hundred))~~ two thousand dollars or more was owed; the original amount of each debt to each ~~((such))~~ creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each ~~((such))~~ debt; and the security given, if any, for

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each such debt ~~((: PROVIDED, That))~~, Debts arising ((out of)) from a "retail installment transaction" as defined in chapter 63.14 RCW (retail installment sales act) need not be reported; ((and))

(d) Every public or private office, directorship, and position held as trustee; ~~((and))~~

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation ~~((: PROVIDED, That))~~, For the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which ((such)) the person serves as an elected official or state executive officer or professional staff member for his or her service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; ((and))

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of ~~((five hundred))~~ two thousand dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; ~~((and))~~

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and ~~((with respect to each such entity))~~: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; and (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of ~~((two thousand five hundred))~~ ten thousand dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation ~~((: PROVIDED, That the term))~~. As used in (g)(ii) of this subsection, "compensation" ((for purposes of this subsection 1)(g)(ii)) does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service((: PROVIDED, FURTHER, That)). With respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds ((six)) two thousand four hundred dollars; ((and))

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; ~~((and))~~

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; ~~((and))~~

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which a direct financial interest was held; ~~((PROVIDED, That))~~. If a description of the property has been included in a report previously filed, the property may be listed, for purposes of this ~~((provision))~~ subsection (1)(j), by reference to the previously filed report; ~~((and))~~

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((five))~~ twenty thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; ~~((and))~~

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5); ~~((and))~~

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(10) (d) and (f) were accepted; and

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1)(a) through (m) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than ~~((one))~~ four thousand dollars, at least ~~((one))~~ four thousand dollars but less than ~~((five))~~ twenty thousand dollars, at least ~~((ten))~~ forty thousand dollars but less than ~~((ten))~~ forty thousand dollars, at least ~~((twenty-five))~~ one hundred thousand dollars, or ~~((twenty-five))~~ one hundred thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Items of value given to an official's or employee's spouse, domestic partner, or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse, domestic partner, or family member.

**Sec. 904.** RCW 42.17.242 and 1977 ex.s. c 336 s 4 are each amended to read as follows:

No payment shall be made to any person required to report under RCW 42.17.240 (as recodified by this act) and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment ~~((except that))~~. The commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes.

## PART 10 ENFORCEMENT

**Sec. 1001.** RCW 42.17.390 and 2006 c 315 s 2 are each amended to read as follows:

One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of ~~((said))~~ that election may be held void and a special election held within sixty days of ~~((such))~~ the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for lobbying ~~((PROVIDED, HOWEVER, That))~~. The imposition of ~~((such))~~ a sanction shall not excuse ~~((said))~~ the lobbyist from filing statements and reports required by this chapter.

(3) ~~((Any))~~ A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each ~~((such))~~ violation. However, a person or entity who violates RCW 42.17.640 (as recodified by this act) may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) ~~((Any))~~ A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each ~~((such))~~ delinquency continues.

(5) ~~((Any))~~ A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

**Sec. 1002.** RCW 42.17.395 and 2006 c 315 s 3 are each amended to read as follows:

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such a determination.

(2) The commission, in cases where it chooses to determine whether an actual violation has occurred, shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW, to make ~~((such))~~ a determination. Any order that the commission issues under this section shall be pursuant to such a hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17.360 (as recodified by this act).

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17.390 (2) through (5) (as recodified by this act). No individual penalty assessed by the commission may exceed one thousand seven hundred dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed four thousand two hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days ~~((as provided in RCW 34.05.542))~~, the commission may petition a court of

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competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397 (as recodified by this act).

**Sec. 1003.** RCW 42.17.397 and 1989 c 175 s 92 are each amended to read as follows:

The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his or her last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied; ~~(and)~~

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself or herself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and ~~((such))~~ the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission.

**Sec. 1004.** RCW 42.17.400 and 2007 c 455 s 1 are each amended to read as follows:

(1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390 (as recodified by this act).

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or ~~((the production of))~~ produce the accounts, bills, receipts, books, papers, and documents ~~((which))~~ that may be relevant or material to any investigation authorized under this chapter, he or she shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. ~~((Such))~~ The order shall have the same force and effect as a

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subpoena, shall be effective statewide, and, upon application of the attorney general or ~~((said))~~ the prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and ~~((such))~~ the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) ~~((Any))~~ A person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself or herself bring in the name of the state any of the actions (hereinafter referred to as a citizen's action) authorized under this chapter.

(a) This citizen action may be brought only if:

(i) The attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after ~~((such))~~ the notice;

(ii) ~~((Such))~~ The person has thereafter further notified the attorney general and prosecuting attorney that ~~((said))~~ the person will commence a citizen's action within ten days upon their failure ~~((so))~~ to do so;

(iii) The attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of said second notice; and

(iv) The citizen's action is filed within two years after the date when the alleged violation occurred.

(b) If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he or she shall be entitled to be reimbursed by the state of Washington for costs and ~~((attorney's))~~ attorneys' fees he or she has incurred ~~((-- PROVIDED, That))~~. In the case of a citizen's action ~~((which))~~ that is dismissed and ~~((which))~~ that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable ~~((attorney's))~~ attorneys' fees incurred by the defendant.

(5) In any action brought under this section, the court may award to the state all costs of investigation and trial, including ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he or she shall be awarded all costs of trial, and may be awarded ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court to be paid by the state of Washington.

**Sec. 1005.** RCW 42.56.010 and 2007 c 197 s 1 are each amended to read as follows:

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

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

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

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

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

## PART 11 MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 1101. When RCW 42.17.2401 (as recodified by this act) is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order, arranged according to the first distinctive word of each agency's name.

NEW SECTION. Sec. 1102. The following sections are recodified as a new chapter in Title 42 RCW, to be codified as chapter 42.17A RCW, in the following order with the following subchapter headings:

### GENERAL PROVISIONS

RCW 42.17.010

RCW 42.17.020

RCW 42.17.035

RCW 42.17.440

### ELECTRONIC ACCESS

RCW 42.17.367

RCW 42.17.369

RCW 42.17.460

RCW 42.17.461

RCW 42.17.463

### ADMINISTRATION

RCW 42.17.350

RCW 42.17.360

RCW 42.17.370

Section 304 of this act

RCW 42.17.690

RCW 42.17.380

RCW 42.17.405

RCW 42.17.420

RCW 42.17.430

RCW 42.17.450

### CAMPAIGN FINANCE REPORTING

RCW 42.17.030

RCW 42.17.040

RCW 42.17.050

Section 404 of this act

RCW 42.17.060

RCW 42.17.065

RCW 42.17.067

RCW 42.17.080

RCW 42.17.090

RCW 42.17.3691

RCW 42.17.093

RCW 42.17.100

RCW 42.17.103

RCW 42.17.105

RCW 42.17.550

RCW 42.17.135

### POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

RCW 42.17.561

RCW 42.17.565

RCW 42.17.570

RCW 42.17.575

RCW 42.17.510

RCW 42.17.520

RCW 42.17.530

RCW 42.17.540

RCW 42.17.110

### CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS

RCW 42.17.610

RCW 42.17.640

RCW 42.17.645

RCW 42.17.700

Section 604 of this act

RCW 42.17.070

RCW 42.17.095

RCW 42.17.120

Section 607 of this act

RCW 42.17.125

RCW 42.17.650

RCW 42.17.660

RCW 42.17.670

RCW 42.17.720

RCW 42.17.730

RCW 42.17.740

RCW 42.17.770

RCW 42.17.780

RCW 42.17.790

RCW 42.17.680

RCW 42.17.760

### PUBLIC OFFICIALS, EMPLOYEES, AND AGENCIES CAMPAIGN RESTRICTIONS AND PROHIBITIONS--REPORTING

RCW 42.17.128

RCW 42.17.130

RCW 42.17.710

RCW 42.17.750

RCW 42.17.245

Section 703 of this act

### LOBBYING DISCLOSURE AND RESTRICTIONS

RCW 42.17.150

RCW 42.17.155

RCW 42.17.160

RCW 42.17.170

RCW 42.17.172

RCW 42.17.175

RCW 42.17.180

RCW 42.17.190

RCW 42.17.200

RCW 42.17.210

RCW 42.17.220

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RCW 42.17.230

PERSONAL FINANCIAL AFFAIRS REPORTING BY  
CANDIDATES AND PUBLIC OFFICIALS

RCW 42.17.240

RCW 42.17.2401

RCW 42.17.241

RCW 42.17.242

ENFORCEMENT

RCW 42.17.390

RCW 42.17.395

RCW 42.17.397

RCW 42.17.400

RCW 42.17.410

TECHNICAL PROVISIONS

RCW 42.17.900

RCW 42.17.910

RCW 42.17.911

RCW 42.17.912

RCW 42.17.920

RCW 42.17.930

RCW 42.17.940

RCW 42.17.945

RCW 42.17.950

RCW 42.17.955

RCW 42.17.960

RCW 42.17.961

RCW 42.17.962

RCW 42.17.963

RCW 42.17.964

RCW 42.17.965

RCW 42.17.966

**NEW SECTION. Sec. 1103.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 42.17.131 (Exemption from RCW 42.17.130) and 1994 c 154 s 317;

(2) RCW 42.17.362 (Toll-free telephone number) and 2000 c 237 s 6;

(3) RCW 42.17.365 (Audits and investigations) and 1999 c 401 s 8 & 1993 c 2 s 29;

(4) RCW 42.17.375 (Reports filed with county elections official--Rules governing) and 1983 c 294 s 1;

(5) RCW 42.17.465 (Information technology plan--Contents) and 1999 c 401 s 4;

(6) RCW 42.17.467 (Information technology plan--Consultation) and 1999 c 401 s 5;

(7) RCW 42.17.469 (Information technology plan--Submission) and 1999 c 401 s 6;

(8) RCW 42.17.471 (Access performance reports) and 1999 c 401 s 7;

(9) RCW 42.17.562 (Intent) and 2005 c 445 s 2;

(10) RCW 42.17.620 (Intent) and 1993 c 2 s 2; and

(11) RCW 42.17.647 (Rules) and 2006 c 348 s 3.

**NEW SECTION. Sec. 1104.** Sections 505, 602, and 703 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 1105.** Sections 101 through 504, 506 through 601, and 603 through 1103 of this act take effect January 1, 2012."

On page 1, line 1 of the title, after "laws;" strike the remainder of the title and insert "amending RCW 42.17.020, 42.17.367, 42.17.369, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105,

42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.070, 42.17.095, 42.17.125, 42.17.660, 42.17.720, 42.17.740, 42.17.790, 42.17.680, 42.17.130, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, and 42.56.010; reenacting and amending RCW 42.17.2401; adding a new chapter to Title 42 RCW; creating new sections; recodifying RCW 42.17.010, 42.17.020, 42.17.035, 42.17.440, 42.17.367, 42.17.369, 42.17.460, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.430, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.530, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.700, 42.17.070, 42.17.095, 42.17.120, 42.17.125, 42.17.650, 42.17.660, 42.17.670, 42.17.720, 42.17.730, 42.17.740, 42.17.770, 42.17.780, 42.17.790, 42.17.680, 42.17.760, 42.17.128, 42.17.130, 42.17.710, 42.17.750, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, 42.17.410, 42.17.900, 42.17.910, 42.17.911, 42.17.912, 42.17.920, 42.17.930, 42.17.940, 42.17.945, 42.17.950, 42.17.955, 42.17.960, 42.17.961, 42.17.962, 42.17.963, 42.17.964, 42.17.965, and 42.17.966; repealing RCW 42.17.131, 42.17.362, 42.17.365, 42.17.375, 42.17.465, 42.17.467, 42.17.469, 42.17.471, 42.17.562, 42.17.620, and 42.17.647; providing an effective date; and declaring an emergency."

#### POINT OF ORDER

Senator Benton: "I believe that the committee amendment to Second Substitute House Bill No. 2016 is outside the scope and object of the bill and in violation of Senate Rule 66. The amendment prohibits an elected official from making public service announcements while the general topic of the bill is public disclosure law. In fact, it is supposedly a technical cleanup bill and that is primarily what this bill does. In the one-hundred three pages there are only two real minor policy changes. Therefore, the committee amendment is outside the scope and object of the bill and I ask the President to rule thereon."

Senator McDermott spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Second Substitute House Bill No. 2016 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2487, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Rodne, Klippert, Green, Santos, Kessler, Liias and Kelley)

Increasing costs for administering a deferred prosecution.

The measure was read the second time.

#### MOTION

On motion of Senator Marr, the rules were suspended, Substitute House Bill No. 2487 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### PARLIAMENTARY INQUIRY

Senator Kline: "I understand the bill was just bumped?"

#### REPLY BY THE PRESIDENT

President Owen: "It has been bumped to third reading. That is correct."

Senators Kline and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2487.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2487 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Absent: Senator Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2487, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Senator Zarelli was excused.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1560, by House Committee on Ways & Means (originally sponsored by Representatives Conway, Wood and Simpson)

Regarding collective bargaining at institutions of higher education.

The measure was read the second time.

#### MOTION

Senator Kohl-Welles moved that the following committee amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

On page 4, after line 36, insert the following:

**"NEW SECTION. Sec. 2.** A new section is added to chapter 41.56 RCW to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to full-time and part-time University of Washington

extension lecturers in English language programs holding annual and quarterly contracts."

On page 1, line 2 of the title, after "education;" strike "and" and after "41.80.010" insert "; and adding a new section to chapter 41.56 RCW"

Senator Kohl-Welles spoke in favor of adoption of the committee amendment.

#### POINT OF ORDER

Senator Holmquist: "Thank you Mr. President. The bill as it came to us makes changes to RCW 41.80.010. It changes certain procedures for collectively bargaining with higher education institutions. The bill allows unions a choice in whether to participate in multi-employer collective bargaining and also allows unions to organize later in the process to have their contracts funded in the budget. By contrast, the amendment hangs what is essentially Senate Bill No. 5986, it grants substantial rights to University of Washington extension lecturers by amending RCW 41.56 to grant them the right collectively bargain. For these reasons, I believe the amendment offered is outside the scope and object of the underlying bill and I respectfully request a ruling on this matter. Thank you."

Senator Kohl-Welles spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute House Bill No. 1560 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

HOUSE BILL NO. 2861, by Representatives Rodne, Pedersen and Wallace

Adding state certified court reporters to the list of persons authorized to administer oaths and affirmations.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2861 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2861.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2861 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

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Excused: Senators Fairley, McCaslin and Pflug

HOUSE BILL NO. 2861, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2686, by House Committee on Health Care & Wellness (originally sponsored by Representatives Driscoll, Hinkle, Condotta, Moeller and Goodman)

Concerning fees for dental services that are not covered by insurance or contract.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 48.20 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no disability insurance policy of any disability insurer as provided in this chapter subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable disability insurance policy; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.21 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no group disability insurance contract or blanket disability insurance contract of any disability insurer as provided for in this chapter subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group plan or disability insurance policy; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy, group plan, or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.44 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no contract of any health care service contractor subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to an enrolled participant at a fee set by, or at a fee subject to the approval of, the health care service contractor unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group contract or individual contract; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to an enrolled participant dental services that are not covered services on any terms or conditions acceptable to the dentist and the enrolled participant.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2686.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "contracts;" strike the remainder of the title and insert "adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; and adding a new section to chapter 48.44 RCW."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2686 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2686 as amended by the Senate .

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2686 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senator Tom

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2686 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2842, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Parker, Kirby and Kenney)

Addressing confidentiality as it relates to insurer receivership.

The measure was read the second time.

## MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 2842 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2842.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2842 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Tom

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2842, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Senator Tom was excused.

## MOTION

On motion of Senator Delvin, Senator Carrell was excused.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3032, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson and Bailey)

Defining normal wear and tear for a motor vehicle for the purpose of a service contract.

The measure was read the second time.

## MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 3032 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3032.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3032 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Carrell, Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3032, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2555, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Simpson, Ormsby and Moeller)

Authorizing the department of labor and industries to issue subpoenas to enforce production of information related to electricians and electrical installations.

The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2555 was advanced to third

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reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.  
 Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2555.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2555 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4. Voting yea: Senators Benton, Berkey, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Brandland, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Carrell, Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2555, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1913, by House Committee on Judiciary (originally sponsored by Representatives Warnick, Flannigan and Simpson)

Changing provisions relating to process servers.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1913 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1913.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1913 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hargrove

Excused: Senators Carrell, Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 1913, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 6:49 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Wednesday, March 3, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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