
SUBSTITUTE SENATE BILL 6056

State of Washington 62nd Legislature 2012 Regular Session

By Senate Government Operations, Tribal Relations & Elections
(originally sponsored by Senators Swecker, Pridemore, and Shin)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to legal defense funds of candidates and public
2 officials; amending RCW 42.17A.125, 42.17A.430, 42.17A.700, 42.17A.710,
3 and 42.52.140; reenacting and amending RCW 42.17A.005 and 42.52.010;
4 adding new sections to chapter 42.17A RCW; and adding a new section to
5 chapter 42.52 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.17A RCW
8 to read as follows:

9 This act may be known and cited as the legal defense funds act.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.17A RCW
11 to read as follows:

12 The legislature finds that the people of Washington have a long-
13 standing interest in ensuring transparency of information about funds
14 provided to public officials and candidates, in prohibiting personal
15 use of campaign funds, and in restricting gifts to public officials.
16 The legislature finds that state laws providing these requirements
17 increase public confidence in government and the electoral process,

1 reduce opportunities for corruption or the appearance of corruption of
2 such individuals, and reduce opportunities for the public official to
3 appear to be beholden to the donator.

4 The legislature recognizes that lawsuits filed against candidates
5 or public officials related to their campaign or public office
6 activities are a reality around the country. These lawsuits have often
7 caused those candidates or public officials to seek to create separate
8 funds to pay for defense of such lawsuits, including when such defense
9 is not paid for by the public official's agency.

10 The legislature finds that it is in the public interest in
11 Washington to require disclosure of and provide limitations on
12 donations given to or raised by public officials and candidates to fund
13 their legal defense.

14 **Sec. 3.** RCW 42.17A.005 and 2011 c 145 s 2 and 2011 c 60 s 19 are
15 each reenacted and amended to read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Actual malice" means to act with knowledge of falsity or with
19 reckless disregard as to truth or falsity.

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

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

31 (4) "Ballot proposition" means any "measure" as defined by RCW
32 29A.04.091, or any initiative, recall, or referendum proposition
33 proposed to be submitted to the voters of the state or any municipal
34 corporation, political subdivision, or other voting constituency from
35 and after the time when the proposition has been initially filed with
36 the appropriate election officer of that constituency before its
37 circulation for signatures.

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

4 (6) "Bona fide political party" means:

5 (a) An organization that has been recognized as a minor political
6 party by the secretary of state;

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

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

14 (7) "Candidate" means any individual who seeks nomination for
15 election or election to public office. An individual seeks nomination
16 or election when he or she first:

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

19 (b) Announces publicly or files for office;

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

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

24 (8) "Caucus political committee" means a political committee
25 organized and maintained by the members of a major political party in
26 the state senate or state house of representatives.

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

33 (10) "Commission" means the agency established under RCW
34 42.17A.100.

35 (11) "Compensation" unless the context requires a narrower meaning,
36 includes payment in any form for real or personal property or services
37 of any kind. For the purpose of compliance with RCW 42.17A.710,
38 "compensation" does not include per diem allowances or other payments

1 made by a governmental entity to reimburse a public official for
2 expenses incurred while the official is engaged in the official
3 business of the governmental entity.

4 (12) "Continuing political committee" means a political committee
5 that is an organization of continuing existence not established in
6 anticipation of any particular election campaign.

7 (13)(a) "Contribution" includes:

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

12 (ii) An expenditure made by a person in cooperation, consultation,
13 or concert with, or at the request or suggestion of, a candidate, a
14 political committee, the person or persons named on the candidate's or
15 committee's registration form who direct expenditures on behalf of the
16 candidate or committee, or their agents;

17 (iii) The financing by a person of the dissemination, distribution,
18 or republication, in whole or in part, of broadcast, written, graphic,
19 or other form of political advertising or electioneering communication
20 prepared by a candidate, a political committee, or its authorized
21 agent;

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

25 (b) "Contribution" does not include:

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

28 (ii) Ordinary home hospitality;

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

32 (iv) A news item, feature, commentary, or editorial in a regularly
33 scheduled news medium that is of primary interest to the general
34 public, that is in a news medium controlled by a person whose business
35 is that news medium, and that is not controlled by a candidate or a
36 political committee;

37 (v) An internal political communication primarily limited to the
38 members of or contributors to a political party organization or

1 political committee, or to the officers, management staff, or
2 stockholders of a corporation or similar enterprise, or to the members
3 of a labor organization or other membership organization;

4 (vi) The rendering of personal services of the sort commonly
5 performed by volunteer campaign workers, or incidental expenses
6 personally incurred by volunteer campaign workers not in excess of
7 fifty dollars personally paid for by the worker. "Volunteer services,"
8 for the purposes of this subsection, means services or labor for which
9 the individual is not compensated by any person;

10 (vii) Messages in the form of reader boards, banners, or yard or
11 window signs displayed on a person's own property or property occupied
12 by a person. However, a facility used for such political advertising
13 for which a rental charge is normally made must be reported as an in-
14 kind contribution and counts towards any applicable contribution limit
15 of the person providing the facility;

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

17 (A) A political party or caucus political committee if the person
18 paying for the services is the regular employer of the person rendering
19 such services; or

20 (B) A candidate or an authorized committee, or a political
21 committee, if:

22 (I) The person paying for the services is the regular employer of
23 the individual rendering the services ((and if));

24 (II) The services are solely for the purpose of ensuring compliance
25 with state election or ((public disclosure laws)) state campaign
26 finance laws; ((or)) and

27 (iii) For a candidate, any billed services are paid for from the
28 candidate's authorized political committee campaign account;

29 (ix) The performance of ministerial functions by a person on behalf
30 of two or more candidates or political committees either as volunteer
31 services defined in (b)(vi) of this subsection or for payment by the
32 candidate or political committee for whom the services are performed as
33 long as:

34 (A) The person performs solely ministerial functions;

35 (B) A person who is paid by two or more candidates or political
36 committees is identified by the candidates and political committees on
37 whose behalf services are performed as part of their respective
38 statements of organization under RCW 42.17A.205; and

1 (C) The person does not disclose, except as required by law, any
2 information regarding a candidate's or committee's plans, projects,
3 activities, or needs, or regarding a candidate's or committee's
4 contributions or expenditures that is not already publicly available
5 from campaign reports filed with the commission, or otherwise engage in
6 activity that constitutes a contribution under (a)(ii) of this
7 subsection; or

8 (x) Legal defense funds raised by or given to a candidate or public
9 official when the funds are created and disclosed in accordance with
10 this chapter.

11 A person who performs ministerial functions under this subsection
12 (13)(b)(ix) is not considered an agent of the candidate or committee as
13 long as he or she has no authority to authorize expenditures or make
14 decisions on behalf of the candidate or committee.

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

22 (14) "Depository" means a bank, mutual savings bank, savings and
23 loan association, or credit union doing business in this state.

24 (15) "Donation" for the purpose of legal defense funds means a
25 payment, loan, gift, deposit, subscription, forgiveness of
26 indebtedness, advance, pledge, transfer of funds, or anything of value,
27 including personal and professional services for less than full
28 consideration. The following are not considered donations to legal
29 defense funds:

30 (a) Legal services payments made directly to the law firm by the
31 candidate or public official or by his or her immediate family member,
32 and that are not donated to his or her legal defense fund.

33 (b) Legal services provided to an elected official or public
34 officer when those services are authorized or required by law.

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

1 ~~((+16+))~~ (17) "Election" includes any primary, general, or special
2 election for public office and any election in which a ballot
3 proposition is submitted to the voters. An election in which the
4 qualifications for voting include other than those requirements set
5 forth in Article VI, section 1 (Amendment 63) of the Constitution of
6 the state of Washington shall not be considered an election for
7 purposes of this chapter.

8 ~~((+17+))~~ (18) "Election campaign" means any campaign in support of
9 or in opposition to a candidate for election to public office and any
10 campaign in support of, or in opposition to, a ballot proposition.

11 ~~((+18+))~~ (19) "Election cycle" means the period beginning on the
12 first day of January after the date of the last previous general
13 election for the office that the candidate seeks and ending on December
14 31st after the next election for the office. In the case of a special
15 election to fill a vacancy in an office, "election cycle" means the
16 period beginning on the day the vacancy occurs and ending on December
17 31st after the special election.

18 ~~((+19+))~~ (20)(a) "Electioneering communication" means any
19 broadcast, cable, or satellite television or radio transmission, United
20 States postal service mailing, billboard, newspaper, or periodical
21 that:

22 (i) Clearly identifies a candidate for a state, local, or judicial
23 office either by specifically naming the candidate, or identifying the
24 candidate without using the candidate's name;

25 (ii) Is broadcast, transmitted, mailed, erected, distributed, or
26 otherwise published within sixty days before any election for that
27 office in the jurisdiction in which the candidate is seeking election;
28 and

29 (iii) Either alone, or in combination with one or more
30 communications identifying the candidate by the same sponsor during the
31 sixty days before an election, has a fair market value of one thousand
32 dollars or more.

33 (b) "Electioneering communication" does not include:

34 (i) Usual and customary advertising of a business owned by a
35 candidate, even if the candidate is mentioned in the advertising when
36 the candidate has been regularly mentioned in that advertising
37 appearing at least twelve months preceding his or her becoming a
38 candidate;

1 (ii) Advertising for candidate debates or forums when the
2 advertising is paid for by or on behalf of the debate or forum sponsor,
3 so long as two or more candidates for the same position have been
4 invited to participate in the debate or forum;

5 (iii) A news item, feature, commentary, or editorial in a regularly
6 scheduled news medium that is:

7 (A) Of primary interest to the general public;

8 (B) In a news medium controlled by a person whose business is that
9 news medium; and

10 (C) Not a medium controlled by a candidate or a political
11 committee;

12 (iv) Slate cards and sample ballots;

13 (v) Advertising for books, films, dissertations, or similar works
14 (A) written by a candidate when the candidate entered into a contract
15 for such publications or media at least twelve months before becoming
16 a candidate, or (B) written about a candidate;

17 (vi) Public service announcements;

18 (vii) A mailed internal political communication primarily limited
19 to the members of or contributors to a political party organization or
20 political committee, or to the officers, management staff, or
21 stockholders of a corporation or similar enterprise, or to the members
22 of a labor organization or other membership organization;

23 (viii) An expenditure by or contribution to the authorized
24 committee of a candidate for state, local, or judicial office; or

25 (ix) Any other communication exempted by the commission through
26 rule consistent with the intent of this chapter.

27 (~~(+20)~~) (21) "Expenditure" includes a payment, contribution,
28 subscription, distribution, loan, advance, deposit, or gift of money or
29 anything of value, and includes a contract, promise, or agreement,
30 whether or not legally enforceable, to make an expenditure.
31 "Expenditure" also includes a promise to pay, a payment, or a transfer
32 of anything of value in exchange for goods, services, property,
33 facilities, or anything of value for the purpose of assisting,
34 benefiting, or honoring any public official or candidate, or assisting
35 in furthering or opposing any election campaign. For the purposes of
36 this chapter, agreements to make expenditures, contracts, and promises
37 to pay may be reported as estimated obligations until actual payment is

1 made. "Expenditure" shall not include the partial or complete
2 repayment by a candidate or political committee of the principal of a
3 loan, the receipt of which loan has been properly reported.

4 ~~((+21+))~~ (22) "Final report" means the report described as a final
5 report in RCW 42.17A.235(2).

6 ~~((+22+))~~ (23) "General election" for the purposes of RCW 42.17A.405
7 means the election that results in the election of a person to a state
8 or local office. It does not include a primary.

9 ~~((+23+))~~ (24) "Gift" has the definition in RCW 42.52.010.

10 ~~((+24+))~~ (25) "Immediate family" includes the spouse or domestic
11 partner, dependent children, and other dependent relatives, if living
12 in the household. For the purposes of the definition of "intermediary"
13 in this section, "immediate family" means an individual's spouse or
14 domestic partner, and child, stepchild, grandchild, parent, stepparent,
15 grandparent, brother, half brother, sister, or half sister of the
16 individual and the spouse or the domestic partner of any such person
17 and a child, stepchild, grandchild, parent, stepparent, grandparent,
18 brother, half brother, sister, or half sister of the individual's
19 spouse or domestic partner and the spouse or the domestic partner of
20 any such person.

21 ~~((+25+))~~ (26) "Incumbent" means a person who is in present
22 possession of an elected office.

23 ~~((+26+))~~ (27) "Independent expenditure" means an expenditure that
24 has each of the following elements:

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

36 (b) The expenditure pays in whole or in part for political
37 advertising that either specifically names the candidate supported or

1 opposed, or clearly and beyond any doubt identifies the candidate
2 without using the candidate's name; and

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

9 ~~((+27))~~ (28)(a) "Intermediary" means an individual who transmits
10 a contribution to a candidate or committee from another person unless
11 the contribution is from the individual's employer, immediate family,
12 or an association to which the individual belongs.

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

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

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

20 ~~((+28))~~ (29) "Legal defense fund" means a separate account
21 established by a candidate or public official to defray attorneys' fees
22 and other legal costs incurred for the candidate's or public official's
23 legal defense.

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

30 ~~((+29))~~ (31) "Legislative office" means the office of a member of
31 the state house of representatives or the office of a member of the
32 state senate.

33 ~~((+30))~~ (32) "Lobby" and "lobbying" each mean attempting to
34 influence the passage or defeat of any legislation by the legislature
35 of the state of Washington, or the adoption or rejection of any rule,
36 standard, rate, or other legislative enactment of any state agency
37 under the state administrative procedure act, chapter 34.05 RCW.

1 Neither "lobby" nor "lobbying" includes an association's or other
2 organization's act of communicating with the members of that
3 association or organization.

4 ~~((+31+))~~ (33) "Lobbyist" includes any person who lobbies either in
5 his or her own or another's behalf.

6 ~~((+32+))~~ (34) "Lobbyist's employer" means the person or persons by
7 whom a lobbyist is employed and all persons by whom he or she is
8 compensated for acting as a lobbyist.

9 ~~((+33+))~~ (35) "Ministerial functions" means an act or duty carried
10 out as part of the duties of an administrative office without exercise
11 of personal judgment or discretion.

12 ~~((+34+))~~ (36) "Participate" means that, with respect to a
13 particular election, an entity:

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

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

17 (c) Endorses a candidate before contributions are made by a
18 subsidiary corporation or local unit with respect to that candidate or
19 that candidate's opponent;

20 (d) Makes a recommendation regarding whether a candidate should be
21 supported or opposed before a contribution is made by a subsidiary
22 corporation or local unit with respect to that candidate or that
23 candidate's opponent; or

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

31 ~~((+35+))~~ (37) "Person" includes an individual, partnership, joint
32 venture, public or private corporation, association, federal, state, or
33 local governmental entity or agency however constituted, candidate,
34 committee, political committee, political party, executive committee
35 thereof, or any other organization or group of persons, however
36 organized.

37 ~~((+36+))~~ (38) "Political advertising" includes any advertising
38 displays, newspaper ads, billboards, signs, brochures, articles,

1 tabloids, flyers, letters, radio or television presentations, or other
2 means of mass communication, used for the purpose of appealing,
3 directly or indirectly, for votes or for financial or other support or
4 opposition in any election campaign.

5 ~~((+37))~~ (39) "Political committee" means any person (except a
6 candidate or an individual dealing with his or her own funds or
7 property) having the expectation of receiving contributions or making
8 expenditures in support of, or opposition to, any candidate or any
9 ballot proposition.

10 ~~((+38))~~ (40) "Primary" for the purposes of RCW 42.17A.405 means
11 the procedure for nominating a candidate to state or local office under
12 chapter 29A.52 RCW or any other primary for an election that uses, in
13 large measure, the procedures established in chapter 29A.52 RCW.

14 ~~((+39))~~ (41) "Public office" means any federal, state, judicial,
15 county, city, town, school district, port district, special district,
16 or other state political subdivision elective office.

17 ~~((+40))~~ (42) "Public official" for the purpose of legal defense
18 funds means a person required to file a statement of financial affairs
19 including elected officials, persons appointed to a vacancy in an
20 elected office, and executive state officers defined in RCW 42.17A.705.

21 (43) "Public record" has the definition in RCW 42.56.010.

22 ~~((+41))~~ (44) "Recall campaign" means the period of time beginning
23 on the date of the filing of recall charges under RCW 29A.56.120 and
24 ending thirty days after the recall election.

25 ~~((+42))~~ (45)(a) "Sponsor" for purposes of an electioneering
26 communications, independent expenditures, or political advertising
27 means the person paying for the electioneering communication,
28 independent expenditure, or political advertising. If a person acts as
29 an agent for another or is reimbursed by another for the payment, the
30 original source of the payment is the sponsor.

31 (b) "Sponsor," for purposes of a political committee, means any
32 person, except an authorized committee, to whom any of the following
33 applies:

34 (i) The committee receives eighty percent or more of its
35 contributions either from the person or from the person's members,
36 officers, employees, or shareholders;

37 (ii) The person collects contributions for the committee by use of
38 payroll deductions or dues from its members, officers, or employees.

1 (~~(43)~~) (46) "Sponsored committee" means a committee, other than
2 an authorized committee, that has one or more sponsors.

3 (~~(44)~~) (47) "State office" means state legislative office or the
4 office of governor, lieutenant governor, secretary of state, attorney
5 general, commissioner of public lands, insurance commissioner,
6 superintendent of public instruction, state auditor, or state
7 treasurer.

8 (~~(45)~~) (48) "State official" means a person who holds a state
9 office.

10 (~~(46)~~) (49) "Surplus funds" mean, in the case of a political
11 committee or candidate, the balance of contributions that remain in the
12 possession or control of that committee or candidate subsequent to the
13 election for which the contributions were received, and that are in
14 excess of the amount necessary to pay remaining debts incurred by the
15 committee or candidate with respect to that election. In the case of
16 a continuing political committee, "surplus funds" mean those
17 contributions remaining in the possession or control of the committee
18 that are in excess of the amount necessary to pay all remaining debts
19 when it makes its final report under RCW 42.17A.255.

20 (~~(47)~~) (50) "Treasurer" and "deputy treasurer" mean the
21 individuals appointed by a candidate or political committee, pursuant
22 to RCW 42.17A.210, to perform the duties specified in that section.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.17A RCW
24 to read as follows:

25 (1) The legal defense funds act shall constitute the sole authority
26 for soliciting or accepting donations to a separate legal defense fund
27 created by or for a candidate or public official.

28 (2) A legal defense fund may be established by any candidate or
29 public official.

30 (3) A legal defense fund may be established only when the candidate
31 or public official becomes subject to civil, criminal, or
32 administrative proceedings during a campaign; in the electoral context
33 unless otherwise provided in this chapter; or in the performance of a
34 public official's duties when those attorneys' fees and costs are not
35 paid for at public expense. A legal defense fund may be established
36 only upon:

1 (a) The commencement of a formal action against the candidate or
2 public official in a judicial or administrative forum for activities
3 related to the candidate's or public official's campaign or public
4 duties;

5 (b) The commencement of an investigation by a public agency for
6 activities related to the candidate's or public official's campaign or
7 public duties and where the candidate or public official is the
8 respondent; or

9 (c) Litigation concerning ballot counting or recounts in the
10 candidate's election.

11 (4) Legal defense funds may be used only for the proceedings and
12 investigations in subsection (3) of this section, and for
13 administrative costs associated with administering the fund and
14 complying with provisions in this chapter that govern legal defense
15 funds.

16 (5) A legal defense fund shall not be used for:

17 (a) Initiating or affirmatively pursuing lawsuits except for
18 litigation concerning ballot counting or recounts in the candidate's
19 election;

20 (b) Any litigation in connection with the candidate's or public
21 official's personal or business affairs;

22 (c) Recall election expenses of a public official;

23 (d) Personal use;

24 (e) Campaign fund-raising;

25 (f) Media or political advertising;

26 (g) Political consulting fees;

27 (h) Mass mailings or other advertising;

28 (i) Paying fines, penalties, judgments, or settlements; or

29 (j) Any other purpose not authorized by this chapter or by the
30 commission through rule.

31 (6) The legal defense fund shall be named "The (name of candidate
32 or public official) Legal Defense Fund."

33 (7) The fund shall be established in a single account at a bank,
34 mutual savings bank, savings and loan association, or credit union
35 doing business in this state. The account must be separate from any
36 other account held by the candidate or public official.

37 (8) A candidate or public official may have no more than one legal
38 defense fund.

1 NEW SECTION. Sec. 5. A new section is added to chapter 42.17A RCW
2 to read as follows:

3 (1) A candidate or public official who establishes a legal defense
4 fund shall appoint a legally competent person to serve as trustee to
5 administer the fund. A candidate or public official may not serve as
6 trustee for his or her legal defense fund.

7 (2) The trustee serves as treasurer of the fund. The trustee may
8 be assisted by a committee. The candidate or public official who is
9 the subject of the fund may not serve on the committee.

10 (3) Only the trustee or a committee member acting at the direction
11 of the trustee is authorized to make expenditures from the fund.

12 (4) The trustee must be a person who has no legal authority over
13 the employees or volunteers of the public official's agency. A trustee
14 shall not specifically solicit donations from the employees or
15 volunteers of the public official's agency.

16 (5) The trustee of a fund established for a public official who is
17 an employee of the legislative branch or of the office of the governor
18 cannot be a registered lobbyist or lobbyist employer.

19 (6) The trustee of a fund established for a public official cannot
20 be a contractor who has a current contract with the public official's
21 agency.

22 NEW SECTION. Sec. 6. A new section is added to chapter 42.17A RCW
23 to read as follows:

24 (1) A legal defense fund shall be disclosed on reporting forms
25 provided by the commission as follows:

26 (a) The reports shall be signed and certified as correct by the
27 trustee;

28 (b) The trustee shall provide the completed and signed reports to
29 the candidate or public official who is the subject of the fund; and

30 (c) The candidate or public official shall file the reports as
31 supplements to his or her statement of financial affairs.

32 (2) The initial report shall identify:

33 (a) The specific litigation or investigation being funded;

34 (b) The name of the trustee including his or her address, phone
35 number, email address, and other contact information required by the
36 commission;

1 (c) The fund's committee members, if any, including their addresses
2 and other contact information required by the commission;

3 (d) The depository where the legal defense funds are being
4 deposited including the address;

5 (e) Any other address for the fund including any web address;

6 (f) Donations to the fund as of the date of the initial report
7 including donators' names and addresses of persons giving fifty dollars
8 or more, and donators' employer and occupations for individuals giving
9 more than one hundred dollars;

10 (g) Expenditures from the fund as of the date of the initial report
11 including name of recipient, address, date of expenditure, and purpose
12 for each expenditure;

13 (h) If the subject of the fund is a candidate, the name of the
14 candidate's authorized political committee;

15 (i) The planned distribution of any surplus funds in accordance
16 with section 11 of this act; and

17 (j) Such other information as the commission may by rule prescribe,
18 in keeping with the policies and purposes of this chapter.

19 (3) A legal defense fund initial report shall be filed within two
20 weeks of the fund's establishment. Periodic reports disclosing
21 additional donations and expenditures including the donator information
22 described in subsection (2)(f) of this section, and any amendments to
23 the initial report, shall be filed thereafter on April 15th (covering
24 the period December 16th of the previous year through April 1st),
25 August 31st (covering the period April 2nd through August 15th), and
26 December 31st (covering the period August 16th through December 15th).

27 (4) A closing report showing the termination of the fund and
28 disposition of any surplus funds shall be filed within two weeks of the
29 end of the litigation or investigation for which the fund was created.
30 A fund is presumed to cease ninety days following the final judgment or
31 other final action in the litigation or investigation for which the
32 fund was created, unless good cause is found by the commission to
33 extend the termination date. A candidate or public official may not
34 accept donations to his or her fund after the fund has ceased.

35 (5) The trustee shall maintain all records, including the books of
36 account, bills, receipts, donation information, ledgers, and records
37 documenting the litigation or investigation expenses for which the
38 legal defense fund was created, for not less than five calendar years

1 following the year the legal defense fund is terminated. The records
2 shall be made available to the commission upon request. The records
3 are subject to audit by the commission.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 42.17A RCW
5 to read as follows:

6 (1) No person may give, and no candidate or public official may
7 accept, more than one thousand dollars total per calendar year per
8 person as donations to any legal defense fund of a candidate or public
9 official.

10 (2) No candidate or public official may accept an anonymous
11 donation or knowingly accept a donation that does not accurately
12 provide the identity of the original donator.

13 (3) Funds raised are limited to the amount reasonably necessary to
14 defray the attorneys' fees and other legal costs related to the
15 litigation or investigation for which the fund was created.

16 (4) Donations to legal defense funds are not subject to donation
17 limits when the donation constitutes pro bono legal services to the
18 candidate or public official in the matters for which the fund was
19 created and:

20 (a) The candidate or public official pays for costs incurred or
21 expenses advanced by the law firm or attorney and for which clients are
22 liable under other provisions of law; and

23 (b) All pro bono legal services and costs or expenses advanced are
24 disclosed on the legal defense fund reports filed with the commission,
25 including the value of services and dates when the services were
26 rendered.

27 **Sec. 8.** RCW 42.17A.125 and 2011 c 60 s 21 are each amended to read
28 as follows:

29 (1) At the beginning of each even-numbered calendar year, the
30 commission shall increase or decrease the dollar amounts in RCW
31 42.17A.005(~~((+26+))~~) (27), 42.17A.405, 42.17A.410, 42.17A.445(3),
32 42.17A.475, (~~and~~) 42.17A.630(1), and section 7 of this act based on
33 changes in economic conditions as reflected in the inflationary index
34 recommended by the office of financial management. The new dollar
35 amounts established by the commission under this section shall be
36 rounded off to amounts as judged most convenient for public

1 understanding and so as to be within ten percent of the target amount
2 equal to the base amount provided in this chapter multiplied by the
3 increase in the inflationary index since July 2008.

4 (2) The commission may revise, at least once every five years but
5 no more often than every two years, the monetary reporting thresholds
6 and reporting code values of this chapter. The revisions shall be only
7 for the purpose of recognizing economic changes as reflected by an
8 inflationary index recommended by the office of financial management.
9 The revisions shall be guided by the change in the index for the period
10 commencing with the month of December preceding the last revision and
11 concluding with the month of December preceding the month the revision
12 is adopted. As to each of the three general categories of this
13 chapter, reports of campaign finance, reports of lobbyist activity, and
14 reports of the financial affairs of elected and appointed officials
15 including legal defense funds, the revisions shall equally affect all
16 thresholds within each category. The revisions authorized by this
17 subsection shall reflect economic changes from the time of the last
18 legislative enactment affecting the respective code or threshold.

19 (3) Revisions made in accordance with subsections (1) and (2) of
20 this section shall be adopted as rules under chapter 34.05 RCW.

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

23 (1) A candidate may receive legal services for the purpose of
24 ensuring compliance with state election or state campaign finance laws
25 and those services are not campaign contributions when the requirements
26 of RCW 42.17A.005(13)(b)(x) are satisfied. Ensuring compliance with
27 state election or state campaign finance laws includes receiving legal
28 services to respond to state election and campaign finance enforcement
29 cases and investigations.

30 (2) A candidate may use campaign contributions for expenditures for
31 ballot counting as provided in RCW 42.17A.405(15), including for
32 recounts.

33 (3) A candidate may also establish a separate legal defense fund to
34 pay for legal services related to the defense of investigations or any
35 civil, criminal, or administrative enforcement cases concerning
36 violations of state election or campaign finance laws, or for ballot

1 counting or recount litigation, so long as the requirements of the
2 legal defense fund provisions of this chapter are satisfied.

3 **Sec. 10.** RCW 42.17A.430 and 2010 c 204 s 606 are each amended to
4 read as follows:

5 The surplus funds of a candidate or a candidate's authorized
6 committee may only be disposed of in any one or more of the following
7 ways:

8 (1) Return the surplus to a contributor in an amount not to exceed
9 that contributor's original contribution;

10 (2) Using surplus, reimburse the candidate for lost earnings
11 incurred as a result of that candidate's election campaign. Lost
12 earnings shall be verifiable as unpaid salary or, when the candidate is
13 not salaried, as an amount not to exceed income received by the
14 candidate for services rendered during an appropriate, corresponding
15 time period. All lost earnings incurred shall be documented and a
16 record thereof shall be maintained by the candidate or the candidate's
17 authorized committee. The committee shall maintain a copy of this
18 record in accordance with RCW 42.17A.235(~~(+6)~~) (5);

19 (3) Transfer the surplus without limit to a political party or to
20 a caucus political committee;

21 (4) Donate the surplus to a charitable organization registered in
22 accordance with chapter 19.09 RCW;

23 (5) Transmit the surplus to the state treasurer for deposit in the
24 general fund, the Washington state legacy project, state library, and
25 archives account under RCW 43.07.380, or the legislative international
26 trade account under RCW 43.15.050, as specified by the candidate or
27 political committee; (~~(6)~~)

28 (6) Hold the surplus in the depository or depositories designated
29 in accordance with RCW 42.17A.215 for possible use in a future election
30 campaign for the same office last sought by the candidate and report
31 any such disposition in accordance with RCW 42.17A.240. If the
32 candidate subsequently announces or publicly files for office, the
33 appropriate information must be reported to the commission in
34 accordance with RCW 42.17A.205 through 42.17A.240. If a subsequent
35 office is not sought the surplus held shall be disposed of in
36 accordance with the requirements of this section(~~(7)~~)i

1 (7) Hold the surplus campaign funds in a separate account for
2 nonreimbursed public office-related expenses or as provided in this
3 section, and report any such disposition in accordance with RCW
4 42.17A.240. The separate account required under this subsection shall
5 not be used for deposits of campaign funds that are not surplus((~~-~~));

6 (8) With the written permission of the contributors, transfer the
7 surplus campaign funds to a separate account established solely as a
8 legal defense fund. The amount each person can donate either directly
9 or as a transfer of his or her campaign contribution is limited to the
10 amount provided in section 7 of this act;

11 (9) No candidate or authorized committee may transfer funds to any
12 other candidate or other political committee.

13 The disposal of surplus funds under this section shall not be
14 considered a contribution for purposes of this chapter.

15 NEW SECTION. Sec. 11. A new section is added to chapter 42.17A
16 RCW to read as follows:

17 Surplus legal defense funds may only be disposed of in any one or
18 more of the following ways at the end of the litigation or
19 investigation for which the fund was created, as designated in the
20 initial report filed with the commission:

21 (1) Return the surplus to a donator in an amount not to exceed the
22 donator's original donation;

23 (2) Donate the surplus to a charitable organization registered in
24 accordance with chapter 19.09 RCW;

25 (3) Transmit the surplus to the state treasurer for deposit in the
26 general fund, the Washington state legacy project, state library, and
27 archives account under RCW 43.07.380, or the legislative international
28 trade account under RCW 43.15.050;

29 (4) Transmit the surplus to the Washington state bar association
30 for the lawyers fund for client protection.

31 **Sec. 12.** RCW 42.17A.700 and 2010 c 204 s 901 are each amended to
32 read as follows:

33 (1) After January 1st and before April 15th of each year, every
34 elected official and every executive state officer shall file with the
35 commission a statement of financial affairs for the preceding calendar

1 year. However, any local elected official whose term of office ends on
2 December 31st shall file the statement required to be filed by this
3 section for the final year of his or her term.

4 (2) Within two weeks of becoming a candidate, every candidate shall
5 file with the commission a statement of financial affairs for the
6 preceding twelve months.

7 (3) Within two weeks of appointment, every person appointed to a
8 vacancy in an elective office or executive state officer position shall
9 file with the commission a statement of financial affairs for the
10 preceding twelve months.

11 (4) A statement of a candidate or appointee filed during the period
12 from January 1st to April 15th shall cover the period from January 1st
13 of the preceding calendar year to the time of candidacy or appointment
14 if the filing of the statement would relieve the individual of a prior
15 obligation to file a statement covering the entire preceding calendar
16 year.

17 (5) No individual may be required to file more than once in any
18 calendar year, except for filing supplemental reports disclosing legal
19 defense funds.

20 (6) Each statement of financial affairs filed under this section
21 shall be sworn as to its truth and accuracy.

22 (7) Every elected official and every executive state officer shall
23 file with their statement of financial affairs a statement certifying
24 that they have read and are familiar with RCW 42.17A.555 or 42.52.180,
25 whichever is applicable.

26 (8) For the purposes of this section, the term "executive state
27 officer" includes those listed in RCW 42.17A.705.

28 (9) This section does not apply to incumbents or candidates for a
29 federal office or the office of precinct committee officer.

30 **Sec. 13.** RCW 42.17A.710 and 2010 c 204 s 903 are each amended to
31 read as follows:

32 (1) The statement of financial affairs required by RCW 42.17A.700
33 shall disclose the following information for the reporting individual
34 and each member of his or her immediate family:

35 (a) Occupation, name of employer, and business address;

36 (b) Each bank account, savings account, and insurance policy in
37 which a direct financial interest was held that exceeds twenty thousand

1 dollars at any time during the reporting period; each other item of
2 intangible personal property in which a direct financial interest was
3 held that exceeds two thousand dollars during the reporting period; the
4 name, address, and nature of the entity; and the nature and highest
5 value of each direct financial interest during the reporting period;

6 (c) The name and address of each creditor to whom the value of two
7 thousand dollars or more was owed; the original amount of each debt to
8 each creditor; the amount of each debt owed to each creditor as of the
9 date of filing; the terms of repayment of each debt; and the security
10 given, if any, for each such debt. Debts arising from a "retail
11 installment transaction" as defined in chapter 63.14 RCW (retail
12 installment sales act) need not be reported;

13 (d) Every public or private office, directorship, and position held
14 as trustee;

15 (e) All persons for whom any legislation, rule, rate, or standard
16 has been prepared, promoted, or opposed for current or deferred
17 compensation. For the purposes of this subsection, "compensation" does
18 not include payments made to the person reporting by the governmental
19 entity for which the person serves as an elected official or state
20 executive officer or professional staff member for his or her service
21 in office; the description of such actual or proposed legislation,
22 rules, rates, or standards; and the amount of current or deferred
23 compensation paid or promised to be paid;

24 (f) The name and address of each governmental entity, corporation,
25 partnership, joint venture, sole proprietorship, association, union, or
26 other business or commercial entity from whom compensation has been
27 received in any form of a total value of two thousand dollars or more;
28 the value of the compensation; and the consideration given or performed
29 in exchange for the compensation;

30 (g) The name of any corporation, partnership, joint venture,
31 association, union, or other entity in which is held any office,
32 directorship, or any general partnership interest, or an ownership
33 interest of ten percent or more; the name or title of that office,
34 directorship, or partnership; the nature of ownership interest; and:

35 (i) With respect to a governmental unit in which the official seeks or
36 holds any office or position, if the entity has received compensation
37 in any form during the preceding twelve months from the governmental
38 unit, the value of the compensation and the consideration given or

1 performed in exchange for the compensation; and (ii) the name of each
2 governmental unit, corporation, partnership, joint venture, sole
3 proprietorship, association, union, or other business or commercial
4 entity from which the entity has received compensation in any form in
5 the amount of ten thousand dollars or more during the preceding twelve
6 months and the consideration given or performed in exchange for the
7 compensation. As used in (g)(ii) of this subsection, "compensation"
8 does not include payment for water and other utility services at rates
9 approved by the Washington state utilities and transportation
10 commission or the legislative authority of the public entity providing
11 the service. With respect to any bank or commercial lending
12 institution in which is held any office, directorship, partnership
13 interest, or ownership interest, it shall only be necessary to report
14 either the name, address, and occupation of every director and officer
15 of the bank or commercial lending institution and the average monthly
16 balance of each account held during the preceding twelve months by the
17 bank or commercial lending institution from the governmental entity for
18 which the individual is an official or candidate or professional staff
19 member, or all interest paid by a borrower on loans from and all
20 interest paid to a depositor by the bank or commercial lending
21 institution if the interest exceeds two thousand four hundred dollars;

22 (h) A list, including legal or other sufficient descriptions as
23 prescribed by the commission, of all real property in the state of
24 Washington, the assessed valuation of which exceeds ten thousand
25 dollars in which any direct financial interest was acquired during the
26 preceding calendar year, and a statement of the amount and nature of
27 the financial interest and of the consideration given in exchange for
28 that interest;

29 (i) A list, including legal or other sufficient descriptions as
30 prescribed by the commission, of all real property in the state of
31 Washington, the assessed valuation of which exceeds ten thousand
32 dollars in which any direct financial interest was divested during the
33 preceding calendar year, and a statement of the amount and nature of
34 the consideration received in exchange for that interest, and the name
35 and address of the person furnishing the consideration;

36 (j) A list, including legal or other sufficient descriptions as
37 prescribed by the commission, of all real property in the state of
38 Washington, the assessed valuation of which exceeds ten thousand

1 dollars in which a direct financial interest was held. If a
2 description of the property has been included in a report previously
3 filed, the property may be listed, for purposes of this subsection
4 (1)(j), by reference to the previously filed report;

5 (k) A list, including legal or other sufficient descriptions as
6 prescribed by the commission, of all real property in the state of
7 Washington, the assessed valuation of which exceeds twenty thousand
8 dollars, in which a corporation, partnership, firm, enterprise, or
9 other entity had a direct financial interest, in which corporation,
10 partnership, firm, or enterprise a ten percent or greater ownership
11 interest was held;

12 (l) A list of each occasion, specifying date, donor, and amount, at
13 which food and beverage in excess of fifty dollars was accepted under
14 RCW 42.52.150(5);

15 (m) A list of each occasion, specifying date, donor, and amount, at
16 which items specified in RCW 42.52.010(~~(+10+)~~) (9) (d) and (f) were
17 accepted; and

18 (n) Such other information as the commission may deem necessary in
19 order to properly carry out the purposes and policies of this chapter,
20 as the commission shall prescribe by rule.

21 (2) The reporting individual shall disclose legal defense funds in
22 reports filed as supplements to the statement of financial affairs.

23 (3) Where an amount is required to be reported under subsection
24 (1)(a) through (m) of this section, it shall be sufficient to comply
25 with the requirement to report whether the amount is less than four
26 thousand dollars, at least four thousand dollars but less than twenty
27 thousand dollars, at least twenty thousand dollars but less than forty
28 thousand dollars, at least forty thousand dollars but less than one
29 hundred thousand dollars, or one hundred thousand dollars or more. An
30 amount of stock may be reported by number of shares instead of by
31 market value. No provision of this subsection may be interpreted to
32 prevent any person from filing more information or more detailed
33 information than required.

34 (~~(+3+)~~) (4) Items of value given to an official's or employee's
35 spouse, domestic partner, or family member are attributable to the
36 official or employee, except the item is not attributable if an
37 independent business, family, or social relationship exists between the
38 donor and the spouse, domestic partner, or family member.

1 NEW SECTION. **Sec. 14.** A new section is added to chapter 42.17A
2 RCW to read as follows:

3 (1) No elected official nor any person appointed to or employed by
4 any public office or agency may use or authorize the use of public
5 funds or the facilities of an agency, directly or indirectly, for the
6 purpose of funding or assisting a candidate's or public official's
7 legal defense fund. Knowing acquiescence by a person with authority to
8 direct, control, or influence the actions of the official, appointee,
9 or employee using public resources in violation of this section
10 constitutes a violation of this section. Facilities of an agency
11 include, but are not limited to, use of stationery, postage, machines,
12 and equipment, use of employees of the office or agency during working
13 hours, vehicles, office space, publications of the office or agency,
14 and clientele lists of persons served by the office or agency.

15 (2) This section does not apply to any person who is a state
16 officer or state employee as defined in RCW 42.52.010.

17 **Sec. 15.** RCW 42.52.010 and 2011 c 60 s 28 are each reenacted and
18 amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Agency" means any state board, commission, bureau, committee,
22 department, institution, division, or tribunal in the legislative,
23 executive, or judicial branch of state government. "Agency" includes
24 all elective offices, the state legislature, those institutions of
25 higher education created and supported by the state government, and
26 those courts that are parts of state government.

27 (2) "Assist" means to act, or offer or agree to act, in such a way
28 as to help, aid, advise, furnish information to, or otherwise provide
29 assistance to another person, believing that the action is of help,
30 aid, advice, or assistance to the person and with intent so to assist
31 such person.

32 (3) "Beneficial interest" has the meaning ascribed to it under the
33 Washington case law. However, an ownership interest in a mutual fund
34 or similar investment pooling fund in which the owner has no management
35 powers does not constitute a beneficial interest in the entities in
36 which the fund or pool invests.

1 (4) "Compensation" means anything of economic value, however
2 designated, that is paid, loaned, granted, or transferred, or to be
3 paid, loaned, granted, or transferred for, or in consideration of,
4 personal services to any person.

5 (5) "Confidential information" means (a) specific information,
6 rather than generalized knowledge, that is not available to the general
7 public on request or (b) information made confidential by law.

8 (6) "Contract" or "grant" means an agreement between two or more
9 persons that creates an obligation to do or not to do a particular
10 thing. "Contract" or "grant" includes, but is not limited to, an
11 employment contract, a lease, a license, a purchase agreement, or a
12 sales agreement.

13 (7) "Ethics boards" means the commission on judicial conduct, the
14 legislative ethics board, and the executive ethics board.

15 (8) "Family" has the same meaning as "immediate family" in RCW
16 42.17A.005.

17 (9) "Gift" means anything of economic value for which no
18 consideration is given. "Gift" does not include:

19 (a) Items from family members or friends where it is clear beyond
20 a reasonable doubt that the gift was not made as part of any design to
21 gain or maintain influence in the agency of which the recipient is an
22 officer or employee;

23 (b) Items related to the outside business of the recipient that are
24 customary and not related to the recipient's performance of official
25 duties;

26 (c) Items exchanged among officials and employees or a social event
27 hosted or sponsored by a state officer or state employee for coworkers;

28 (d) Payments by a governmental or nongovernmental entity of
29 reasonable expenses incurred in connection with a speech, presentation,
30 appearance, or trade mission made in an official capacity. As used in
31 this subsection, "reasonable expenses" are limited to travel, lodging,
32 and subsistence expenses incurred the day before through the day after
33 the event;

34 (e) Items a state officer or state employee is authorized by law to
35 accept;

36 (f) Payment of enrollment and course fees and reasonable travel
37 expenses attributable to attending seminars and educational programs
38 sponsored by a bona fide governmental or nonprofit professional,

1 educational, trade, or charitable association or institution. As used
2 in this subsection, "reasonable expenses" are limited to travel,
3 lodging, and subsistence expenses incurred the day before through the
4 day after the event;

5 (g) Items returned by the recipient to the donor within thirty days
6 of receipt or donated to a charitable organization within thirty days
7 of receipt;

8 (h) Campaign contributions reported under chapter 42.17A RCW;

9 (i) Discounts available to an individual as a member of an employee
10 group, occupation, or similar broad-based group; (~~and~~)

11 (j) Awards, prizes, scholarships, or other items provided in
12 recognition of academic or scientific achievement; and

13 (k) Legal defense fund donations disclosed under chapter 42.17A
14 RCW.

15 (10) "Head of agency" means the chief executive officer of an
16 agency. In the case of an agency headed by a commission, board,
17 committee, or other body consisting of more than one natural person,
18 agency head means the person or board authorized to appoint agency
19 employees and regulate their conduct.

20 (11) "Honorarium" means money or thing of value offered to a state
21 officer or state employee for a speech, appearance, article, or similar
22 item or activity in connection with the state officer's or state
23 employee's official role.

24 (12) "Official duty" means those duties within the specific scope
25 of employment of the state officer or state employee as defined by the
26 officer's or employee's agency or by statute or the state Constitution.

27 (13) "Participate" means to participate in state action or a
28 proceeding personally and substantially as a state officer or state
29 employee, through approval, disapproval, decision, recommendation, the
30 rendering of advice, investigation, or otherwise but does not include
31 preparation, consideration, or enactment of legislation or the
32 performance of legislative duties.

33 (14) "Person" means any individual, partnership, association,
34 corporation, firm, institution, or other entity, whether or not
35 operated for profit.

36 (15) "Regulatory agency" means any state board, commission,
37 department, or officer, except those in the legislative or judicial

1 branches, authorized by law to conduct adjudicative proceedings, issue
2 permits or licenses, or to control or affect interests of identified
3 persons.

4 (16) "Responsibility" in connection with a transaction involving
5 the state, means the direct administrative or operating authority,
6 whether intermediate or final, and either exercisable alone or through
7 subordinates, effectively to approve, disapprove, or otherwise direct
8 state action in respect of such transaction.

9 (17) "State action" means any action on the part of an agency,
10 including, but not limited to:

11 (a) A decision, determination, finding, ruling, or order; and

12 (b) A grant, payment, award, license, contract, transaction,
13 sanction, or approval, or the denial thereof, or failure to act with
14 respect to a decision, determination, finding, ruling, or order.

15 (18) "State employee" means an individual who is employed by an
16 agency in any branch of state government. For purposes of this
17 chapter, employees of the superior courts are not state officers or
18 state employees.

19 (19) "State officer" means every person holding a position of
20 public trust in or under an executive, legislative, or judicial office
21 of the state. "State officer" includes judges of the superior court,
22 judges of the court of appeals, justices of the supreme court, members
23 of the legislature together with the secretary of the senate and the
24 chief clerk of the house of representatives, holders of elective
25 offices in the executive branch of state government, chief executive
26 officers of state agencies, members of boards, commissions, or
27 committees with authority over one or more state agencies or
28 institutions, and employees of the state who are engaged in
29 supervisory, policy-making, or policy-enforcing work. For the purposes
30 of this chapter, "state officer" also includes any person exercising or
31 undertaking to exercise the powers or functions of a state officer.

32 (20) "Thing of economic value," in addition to its ordinary
33 meaning, includes:

34 (a) A loan, property interest, interest in a contract or other
35 chose in action, and employment or another arrangement involving a
36 right to compensation;

37 (b) An option, irrespective of the conditions to the exercise of
38 the option; and

1 (c) A promise or undertaking for the present or future delivery or
2 procurement.

3 (21)(a) "Transaction involving the state" means a proceeding,
4 application, submission, request for a ruling or other determination,
5 contract, claim, case, or other similar matter that the state officer,
6 state employee, or former state officer or state employee in question
7 believes, or has reason to believe:

8 (i) Is, or will be, the subject of state action; or

9 (ii) Is one to which the state is or will be a party; or

10 (iii) Is one in which the state has a direct and substantial
11 proprietary interest.

12 (b) "Transaction involving the state" does not include the
13 following: Preparation, consideration, or enactment of legislation,
14 including appropriation of moneys in a budget, or the performance of
15 legislative duties by an officer or employee; or a claim, case,
16 lawsuit, or similar matter if the officer or employee did not
17 participate in the underlying transaction involving the state that is
18 the basis for the claim, case, or lawsuit.

19 (22) "University" includes "state universities" and "regional
20 universities" as defined in RCW 28B.10.016 and also includes any
21 research or technology institute affiliated with a university,
22 including without limitation, the Spokane Intercollegiate Research and
23 Technology Institute and the Washington Technology Center.

24 (23) "University research employee" means a state officer or state
25 employee employed by a university, but only to the extent the state
26 officer or state employee is engaged in research, technology transfer,
27 approved consulting activities related to research and technology
28 transfer, or other incidental activities.

29 **Sec. 16.** RCW 42.52.140 and 1994 c 154 s 114 are each amended to
30 read as follows:

31 No state officer or state employee may receive, accept, take, seek,
32 or solicit, directly or indirectly, any thing of economic value as a
33 gift, gratuity, or favor from a person if it could be reasonably
34 expected that the gift, gratuity, or favor would influence the vote,
35 action, or judgment of the officer or employee, or be considered as
36 part of a reward for action or inaction. A state officer or state

1 employee who has established a legal defense fund under chapter 42.17A
2 RCW and who has appointed a trustee to solicit donations to the fund is
3 presumed not to be in violation of this section.

4 NEW SECTION. **Sec. 17.** A new section is added to chapter 42.52 RCW
5 to read as follows:

6 No state officer or state employee may use or authorize the use of
7 public funds or the facilities of an agency, directly or indirectly,
8 for the purpose of funding or assisting a candidate's or public
9 official's legal defense fund. Knowing acquiescence by a person with
10 authority to direct, control, or influence the actions of the state
11 officer or state employee using public resources in violation of this
12 section constitutes a violation of this section. Facilities of an
13 agency include, but are not limited to, use of stationery, postage,
14 machines, and equipment, use of state employees of the agency during
15 working hours, vehicles, office space, publications of the agency, and
16 clientele lists of persons served by the agency.

17 NEW SECTION. **Sec. 18.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

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