

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5581

59th Legislature
2005 Regular Session

Passed by the Senate April 23, 2005
YEAS 25 NAYS 24

President of the Senate

Passed by the House April 16, 2005
YEAS 53 NAYS 40

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5581** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5581

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington **59th Legislature** **2005 Regular Session**

By Senate Committee on Ways & Means (originally sponsored by Senators Brown, Finkbeiner, Kohl-Welles, Rasmussen, Prentice, Hewitt, Fairley, Esser, Doumit, Keiser, Haugen, McAuliffe and Shin; by request of Governor Gregoire)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to the strategic financing of life sciences
2 research; amending RCW 43.79.480 and 42.30.110; reenacting and amending
3 RCW 42.17.310, 42.17.310, 42.17.2401, and 43.79A.040; adding a new
4 section to chapter 82.04 RCW; adding a new section to chapter 41.06
5 RCW; adding a new chapter to Title 43 RCW; creating new sections;
6 providing an effective date; providing an expiration date; and
7 declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** LEGISLATIVE DECLARATION. The legislature
10 declares that promoting the health of state residents is a fundamental
11 purpose of state government. The legislature declares it to be a clear
12 public purpose and governmental function to promote life sciences
13 research to foster a preventive and predictive vision of the next
14 generation of health-related innovations, to enhance the competitive
15 position of Washington state in this vital sector of the economy, and
16 to improve the quality and delivery of health care for the people of
17 Washington. The legislature finds that public support for and
18 promotion of life sciences research will benefit the state and its
19 residents through improved health status and health outcomes, economic

1 development, and contributions to scientific knowledge, and such
2 research will lead to breakthroughs and improvements that might not
3 otherwise be discovered due to lack of existing market incentives,
4 especially in the area of regenerative medicine. The legislature finds
5 that public support for and promotion of life sciences research has the
6 potential to provide cures or new treatments for many debilitating
7 diseases that cost the state millions of dollars each year. It is
8 appropriate and consistent with the intent of the master settlement
9 agreement between the state and tobacco product manufacturers to invest
10 a portion of the revenues derived therefrom by the state in life
11 sciences research, to leverage the revenues with other funds, and to
12 encourage cooperation and innovation among public and private
13 institutions involved in life sciences research. The purpose of this
14 chapter is to establish a life sciences discovery fund authority, to
15 grant that authority the power to contract with the state to receive
16 revenues under the master settlement agreement, and to contract with
17 other entities to receive other funds, and to disburse those funds
18 consistent with the purpose of this chapter. The life sciences
19 discovery fund is intended to promote the best available research in
20 life sciences disciplines through diverse Washington institutions and
21 to build upon existing strengths in the area of biosciences and
22 biomanufacturing in order to spread the economic benefits across the
23 state. The life sciences discovery fund is also intended to foster
24 improved health care outcomes and improved agricultural production
25 research across this state and the world. The research investments of
26 the life sciences discovery fund are intended to further the goals of
27 the "Bio 21" report and to support future statewide, comprehensive
28 strategies to lead the nation in life sciences-related research and
29 employment.

30 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
31 section apply throughout this chapter unless the context clearly
32 requires otherwise.

33 (1) "Authority" means the life sciences discovery fund authority
34 created in this chapter.

35 (2) "Board" means the governing board of trustees of the authority.

36 (3) "Contribution agreement" means any agreement authorized under

1 this chapter in which a private entity or a public entity other than
2 the state agrees to provide to the authority contributions for the
3 purpose of promoting life sciences research.

4 (4) "Life sciences research" means advanced and applied research
5 and development intended to improve human health, including scientific
6 study of the developing brain and human learning and development, and
7 other areas of scientific research and development vital to the state's
8 economy.

9 (5) "Master settlement agreement" means the national master
10 settlement agreement and related documents entered into on November 23,
11 1998, by the state and the four principal United States tobacco product
12 manufacturers, as amended and supplemented, for the settlement of
13 litigation brought by the state against the tobacco product
14 manufacturers.

15 (6) "Public employee" means any person employed by the state of
16 Washington or any agency or political subdivision thereof.

17 (7) "Public facilities" means any public institution, public
18 facility, public equipment, or any physical asset owned, leased, or
19 controlled by the state of Washington or any agency or political
20 subdivision thereof.

21 (8) "Public funds" means any funds received or controlled by the
22 state of Washington or any agency or political subdivision thereof,
23 including, but not limited to, funds derived from federal, state, or
24 local taxes, gifts or grants from any source, public or private,
25 federal grants or payments, or intergovernmental transfers.

26 (9) "State agreement" means the agreement authorized under this
27 chapter in which the state provides to the authority the strategic
28 contribution payments required to be made by tobacco product
29 manufacturers to the state and the state's rights to receive such
30 payments, pursuant to the master settlement agreement, for the purpose
31 of promoting life sciences research.

32 (10) "Strategic contribution payments" means the payments
33 designated as such under the master settlement agreement, which will be
34 made to the state in the years 2008 through 2017.

35 NEW SECTION. **Sec. 3.** LIFE SCIENCES DISCOVERY FUND AUTHORITY--
36 ESTABLISHED. (1) The life sciences discovery fund authority is created

1 and constitutes a public instrumentality and agency of the state,
2 separate and distinct from the state, exercising public and essential
3 governmental functions.

4 (2) The powers of the authority are vested in and shall be
5 exercised by a board of trustees consisting of: Two members of either
6 the house appropriations committee or the house committee dealing with
7 technology issues, one from each caucus, to be appointed by the speaker
8 of the house of representatives; two members of either the senate
9 committee on ways and means or the senate committee dealing with
10 technology issues, one from each caucus, to be appointed by the
11 president of the senate; and seven members appointed by the governor
12 with the consent of the senate, one of whom shall be appointed by the
13 governor as chair of the authority and who shall serve on the board and
14 as chair of the authority at the pleasure of the governor. The
15 respective officials shall make the initial appointments no later than
16 thirty days after the effective date of this section. The term of the
17 trustees, other than the chair, is four years from the date of their
18 appointment, except that the terms of three of the initial
19 gubernatorial appointees, as determined by the governor, are for two
20 years from the date of their appointment. A trustee appointed by the
21 governor may be removed by the governor for cause under RCW 43.06.070
22 and 43.06.080. The appropriate official shall fill any vacancy on the
23 board by appointment for the remainder of the unexpired term. The
24 trustees appointed by the governor shall be compensated in accordance
25 with RCW 43.03.240 and may be reimbursed, solely from the funds of the
26 authority, for expenses incurred in the discharge of their duties under
27 this chapter, subject to RCW 43.03.050 and 43.03.060. The trustees who
28 are legislators shall be reimbursed for travel expenses in accordance
29 with RCW 44.04.120.

30 (3) Seven members of the board constitute a quorum.

31 (4) The trustees shall elect a treasurer and secretary annually,
32 and other officers as the trustees determine necessary, and may adopt
33 bylaws or rules for their own government.

34 (5) Meetings of the board shall be held in accordance with the open
35 public meetings act, chapter 42.30 RCW, and at the call of the chair or
36 when a majority of the trustees so requests. Meetings of the board may
37 be held at any location within or out of the state, and trustees may

1 participate in a meeting of the board by means of a conference
2 telephone or similar communication equipment under RCW 23B.08.200.

3 (6) The authority is subject to audit by the state auditor.

4 (7) The attorney general must advise the authority and represent it
5 in all legal proceedings.

6 NEW SECTION. **Sec. 4.** SPECIAL TRUST POWERS. In addition to other
7 powers and duties prescribed in this chapter, the authority is
8 empowered to:

9 (1) Use public moneys in the life sciences discovery fund,
10 leveraging those moneys with amounts received from other public and
11 private sources in accordance with contribution agreements, to promote
12 life sciences research;

13 (2) Solicit and receive gifts, grants, and bequests, and enter into
14 contribution agreements with private entities and public entities other
15 than the state to receive moneys in consideration of the authority's
16 promise to leverage those moneys with amounts received through
17 appropriations from the legislature and contributions from other public
18 entities and private entities, in order to use those moneys to promote
19 life sciences research. Nonstate moneys received by the authority for
20 this purpose shall be deposited in the life sciences discovery fund
21 created in section 8 of this act;

22 (3) Hold funds received by the authority in trust for their use
23 pursuant to this chapter to promote life sciences research;

24 (4) Manage its funds, obligations, and investments as necessary and
25 as consistent with its purpose including the segregation of revenues
26 into separate funds and accounts;

27 (5) Make grants to entities pursuant to contract for the promotion
28 of life sciences research to be conducted in the state. Grant
29 agreements shall specify deliverables to be provided by the recipient
30 pursuant to the grant. The authority shall solicit requests for
31 funding and evaluate the requests by reference to factors such as: (a)
32 The quality of the proposed research; (b) its potential to improve
33 health outcomes, with particular attention to the likelihood that it
34 will also lower health care costs, substitute for a more costly
35 diagnostic or treatment modality, or offer a breakthrough treatment for
36 a particular disease or condition; (c) its potential for leveraging
37 additional funding; (d) its potential to provide health care benefits

1 or benefit human learning and development; (e) its potential to
2 stimulate the health care delivery, biomedical manufacturing, and life
3 sciences related employment in the state; (f) the geographic diversity
4 of the grantees within Washington; (g) evidence of potential royalty
5 income and contractual means to recapture such income for purposes of
6 this chapter; and (h) evidence of public and private collaboration;

7 (6) Create one or more advisory boards composed of scientists,
8 industrialists, and others familiar with life sciences research; and

9 (7) Adopt policies and procedures to facilitate the orderly process
10 of grant application, review, and reward.

11 NEW SECTION. **Sec. 5.** GENERAL POWERS--RESTRICTIONS. The authority
12 has all the general powers necessary to carry out its purposes and
13 duties and to exercise its specific powers. In addition to other
14 powers specified in this chapter, the authority may: (1) Sue and be
15 sued in its own name; (2) make and execute agreements, contracts, and
16 other instruments, with any public or private person or entity, in
17 accordance with this chapter; (3) employ, contract with, or engage
18 independent counsel, financial advisors, auditors, other technical or
19 professional assistants, and such other personnel as are necessary or
20 desirable to implement this chapter; (4) establish such special funds,
21 and controls on deposits to and disbursements from them, as it finds
22 convenient for the implementation of this chapter; (5) enter into
23 contracts with public and private entities for life sciences research
24 to be conducted in the state; (6) adopt rules, consistent with this
25 chapter; (7) delegate any of its powers and duties if consistent with
26 the purposes of this chapter; (8) exercise any other power reasonably
27 required to implement the purposes of this chapter; and (9) hire staff
28 and pay administrative costs.

29 NEW SECTION. **Sec. 6.** LIMITATION OF LIABILITY. Members of the
30 board and persons acting on behalf of the authority, while acting
31 within the scope of their employment or agency, are not subject to
32 personal liability resulting from carrying out the powers and duties
33 conferred on them under this chapter. Neither the state nor the
34 authority is liable for any loss, damage, harm, or other consequence
35 resulting directly or indirectly from grants made by the authority or
36 by any life sciences research funded by such grants.

1 NEW SECTION. **Sec. 7.** DISSOLUTION OF THE AUTHORITY. The authority
2 may petition the legislature to be dissolved upon a showing that it has
3 no reason to exist and that any assets it retains must be distributed
4 to one or more similar entities approved by the legislature. The
5 legislature reserves the right to dissolve the authority after its
6 contractual obligations to its funders and grant recipients have
7 expired.

8 NEW SECTION. **Sec. 8.** LIFE SCIENCES DISCOVERY FUND. The life
9 sciences discovery fund is created in the custody of the state
10 treasurer. Only the board or the board's designee may authorize
11 expenditures from the fund. Expenditures from the fund may be made
12 only for purposes of this chapter. Administrative expenses of the
13 authority, including staff support, may be paid only from the fund.
14 Revenues to the fund consist of transfers made by the legislature from
15 strategic contribution payments deposited in the tobacco settlement
16 account under RCW 43.79.480, moneys received pursuant to contribution
17 agreements entered into pursuant to section 4 of this act, moneys
18 received from gifts, grants, and bequests, and interest earned on the
19 fund.

20 NEW SECTION. **Sec. 9.** By December 1, 2005, the executive director
21 of the life sciences discovery fund authority shall explore and make
22 recommendations to the legislature regarding the potential for the
23 state to receive royalty income and direct it to the higher education
24 legacy trust fund.

25 NEW SECTION. **Sec. 10.** By December 1, 2006, the executive director
26 of the life sciences discovery fund shall provide a report to the
27 legislature on the anticipated return on investment to the state from
28 the investment of public funds in the life sciences discovery fund,
29 including potential job growth, royalty income, intellectual property
30 rights, and other significant long-term benefits to the state.

31 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.04 RCW
32 to read as follows:

33 BUSINESS AND OCCUPATION TAX EXEMPTION. This chapter does not apply

1 to income received by the life sciences discovery fund authority under
2 chapter 43.-- RCW (sections 1 through 8 of this act).

3 **Sec. 12.** RCW 43.79.480 and 2002 c 365 s 15 are each amended to
4 read as follows:

5 (1) Moneys received by the state of Washington in accordance with
6 the settlement of the state's legal action against tobacco product
7 manufacturers, exclusive of costs and attorneys' fees, shall be
8 deposited in the tobacco settlement account created in this section
9 except as these moneys are sold or assigned under chapter 43.340 RCW.

10 (2) The tobacco settlement account is created in the state
11 treasury. Moneys in the tobacco settlement account may only be
12 transferred to the health services account for the purposes set forth
13 in RCW 43.72.900, and to the tobacco prevention and control account for
14 purposes set forth in this section. The legislature shall transfer
15 amounts received as strategic contribution payments as defined in
16 section 2 of this act to the life sciences discovery fund created in
17 section 8 of this act.

18 (3) The tobacco prevention and control account is created in the
19 state treasury. The source of revenue for this account is moneys
20 transferred to the account from the tobacco settlement account,
21 investment earnings, donations to the account, and other revenues as
22 directed by law. Expenditures from the account are subject to
23 appropriation.

24 **Sec. 13.** RCW 42.30.110 and 2003 c 277 s 1 are each amended to read
25 as follows:

26 (1) Nothing contained in this chapter may be construed to prevent
27 a governing body from holding an executive session during a regular or
28 special meeting:

- 29 (a) To consider matters affecting national security;
- 30 (b) To consider the selection of a site or the acquisition of real
31 estate by lease or purchase when public knowledge regarding such
32 consideration would cause a likelihood of increased price;
- 33 (c) To consider the minimum price at which real estate will be
34 offered for sale or lease when public knowledge regarding such
35 consideration would cause a likelihood of decreased price. However,

1 final action selling or leasing public property shall be taken in a
2 meeting open to the public;

3 (d) To review negotiations on the performance of publicly bid
4 contracts when public knowledge regarding such consideration would
5 cause a likelihood of increased costs;

6 (e) To consider, in the case of an export trading company,
7 financial and commercial information supplied by private persons to the
8 export trading company;

9 (f) To receive and evaluate complaints or charges brought against
10 a public officer or employee. However, upon the request of such
11 officer or employee, a public hearing or a meeting open to the public
12 shall be conducted upon such complaint or charge;

13 (g) To evaluate the qualifications of an applicant for public
14 employment or to review the performance of a public employee. However,
15 subject to RCW 42.30.140(4), discussion by a governing body of
16 salaries, wages, and other conditions of employment to be generally
17 applied within the agency shall occur in a meeting open to the public,
18 and when a governing body elects to take final action hiring, setting
19 the salary of an individual employee or class of employees, or
20 discharging or disciplining an employee, that action shall be taken in
21 a meeting open to the public;

22 (h) To evaluate the qualifications of a candidate for appointment
23 to elective office. However, any interview of such candidate and final
24 action appointing a candidate to elective office shall be in a meeting
25 open to the public;

26 (i) To discuss with legal counsel representing the agency matters
27 relating to agency enforcement actions, or to discuss with legal
28 counsel representing the agency litigation or potential litigation to
29 which the agency, the governing body, or a member acting in an official
30 capacity is, or is likely to become, a party, when public knowledge
31 regarding the discussion is likely to result in an adverse legal or
32 financial consequence to the agency.

33 This subsection (1)(i) does not permit a governing body to hold an
34 executive session solely because an attorney representing the agency is
35 present. For purposes of this subsection (1)(i), "potential
36 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
37 concerning:

1 (A) Litigation that has been specifically threatened to which the
2 agency, the governing body, or a member acting in an official capacity
3 is, or is likely to become, a party;

4 (B) Litigation that the agency reasonably believes may be commenced
5 by or against the agency, the governing body, or a member acting in an
6 official capacity; or

7 (C) Litigation or legal risks of a proposed action or current
8 practice that the agency has identified when public discussion of the
9 litigation or legal risks is likely to result in an adverse legal or
10 financial consequence to the agency;

11 (j) To consider, in the case of the state library commission or its
12 advisory bodies, western library network prices, products, equipment,
13 and services, when such discussion would be likely to adversely affect
14 the network's ability to conduct business in a competitive economic
15 climate. However, final action on these matters shall be taken in a
16 meeting open to the public;

17 (k) To consider, in the case of the state investment board,
18 financial and commercial information when the information relates to
19 the investment of public trust or retirement funds and when public
20 knowledge regarding the discussion would result in loss to such funds
21 or in private loss to the providers of this information;

22 (l) To consider proprietary or confidential nonpublished
23 information related to the development, acquisition, or implementation
24 of state purchased health care services as provided in RCW 41.05.026;

25 (m) To consider in the case of the life sciences discovery fund
26 authority, the substance of grant applications and grant awards when
27 public knowledge regarding the discussion would reasonably be expected
28 to result in private loss to the providers of this information.

29 (2) Before convening in executive session, the presiding officer of
30 a governing body shall publicly announce the purpose for excluding the
31 public from the meeting place, and the time when the executive session
32 will be concluded. The executive session may be extended to a stated
33 later time by announcement of the presiding officer.

34 NEW SECTION. Sec. 14. A new section is added to chapter 41.06 RCW
35 to read as follows:

36 In addition to the exemptions set forth in RCW 41.06.070, this

1 chapter does not apply to employees of the life sciences discovery fund
2 authority under chapter 43.-- RCW (sections 1 through 8 of this act).

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

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

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

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

13 (c) Information required of any taxpayer in connection with the
14 assessment or collection of any tax if the disclosure of the
15 information to other persons would (i) be prohibited to such persons by
16 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
17 taxpayer's right to privacy or result in unfair competitive
18 disadvantage to the taxpayer.

19 (d) Specific intelligence information and specific investigative
20 records compiled by investigative, law enforcement, and penology
21 agencies, and state agencies vested with the responsibility to
22 discipline members of any profession, the nondisclosure of which is
23 essential to effective law enforcement or for the protection of any
24 person's right to privacy.

25 (e) Information revealing the identity of persons who are witnesses
26 to or victims of crime or who file complaints with investigative, law
27 enforcement, or penology agencies, other than the public disclosure
28 commission, if disclosure would endanger any person's life, physical
29 safety, or property. If at the time a complaint is filed the
30 complainant, victim or witness indicates a desire for disclosure or
31 nondisclosure, such desire shall govern. However, all complaints filed
32 with the public disclosure commission about any elected official or
33 candidate for public office must be made in writing and signed by the
34 complainant under oath.

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

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

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

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

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

20 (k) Records, maps, or other information identifying the location of
21 archaeological sites in order to avoid the looting or depredation of
22 such sites.

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

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

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

35 (o) Financial and commercial information and records supplied by
36 private persons pertaining to export services provided pursuant to
37 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
38 export projects pursuant to RCW 43.23.035.

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

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

6 (r) Financial and commercial information and records supplied by
7 businesses or individuals during application for loans or program
8 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
9 or during application for economic development loans or program
10 services provided by any local agency.

11 (s) Membership lists or lists of members or owners of interests of
12 units in timeshare projects, subdivisions, camping resorts,
13 condominiums, land developments, or common-interest communities
14 affiliated with such projects, regulated by the department of
15 licensing, in the files or possession of the department.

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

19 (u) The residential addresses or residential telephone numbers of
20 employees or volunteers of a public agency which are held by any public
21 agency in personnel records, public employment related records, or
22 volunteer rosters, or are included in any mailing list of employees or
23 volunteers of any public agency.

24 (v) The residential addresses and residential telephone numbers of
25 the customers of a public utility contained in the records or lists
26 held by the public utility of which they are customers, except that
27 this information may be released to the division of child support or
28 the agency or firm providing child support enforcement for another
29 state under Title IV-D of the federal social security act, for the
30 establishment, enforcement, or modification of a support order.

31 (w)(i) The federal social security number of individuals governed
32 under chapter 18.130 RCW maintained in the files of the department of
33 health, except this exemption does not apply to requests made directly
34 to the department from federal, state, and local agencies of
35 government, and national and state licensing, credentialing,
36 investigatory, disciplinary, and examination organizations; (ii) the
37 current residential address and current residential telephone number of
38 a health care provider governed under chapter 18.130 RCW maintained in

1 the files of the department, if the provider requests that this
2 information be withheld from public inspection and copying, and
3 provides to the department an accurate alternate or business address
4 and business telephone number. On or after January 1, 1995, the
5 current residential address and residential telephone number of a
6 health care provider governed under RCW 18.130.040 maintained in the
7 files of the department shall automatically be withheld from public
8 inspection and copying unless the provider specifically requests the
9 information be released, and except as provided for under RCW
10 42.17.260(9).

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

13 (y) Information obtained by the board of pharmacy or the department
14 of health and its representatives as provided in RCW 69.41.044,
15 69.41.280, and 18.64.420.

16 (z) Financial information, business plans, examination reports, and
17 any information produced or obtained in evaluating or examining a
18 business and industrial development corporation organized or seeking
19 certification under chapter 31.24 RCW.

20 (aa) Financial and commercial information supplied to the state
21 investment board by any person when the information relates to the
22 investment of public trust or retirement funds and when disclosure
23 would result in loss to such funds or in private loss to the providers
24 of this information.

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

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

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

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

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

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

7 (hh) Information and documents created specifically for, and
8 collected and maintained by a quality improvement committee pursuant to
9 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
10 4.24.250, regardless of which agency is in possession of the
11 information and documents.

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

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

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

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

27 (mm) The personally identifying information of current or former
28 participants or applicants in a paratransit or other transit service
29 operated for the benefit of persons with disabilities or elderly
30 persons.

31 (nn) The personally identifying information of persons who acquire
32 and use transit passes and other fare payment media including, but not
33 limited to, stored value smart cards and magnetic strip cards, except
34 that an agency may disclose this information to a person, employer,
35 educational institution, or other entity that is responsible, in whole
36 or in part, for payment of the cost of acquiring or using a transit
37 pass or other fare payment media, or to the news media when reporting

1 on public transportation or public safety. This information may also
2 be disclosed at the agency's discretion to governmental agencies or
3 groups concerned with public transportation or public safety.

4 (oo) Proprietary financial and commercial information that the
5 submitting entity, with review by the department of health,
6 specifically identifies at the time it is submitted and that is
7 provided to or obtained by the department of health in connection with
8 an application for, or the supervision of, an antitrust exemption
9 sought by the submitting entity under RCW 43.72.310. If a request for
10 such information is received, the submitting entity must be notified of
11 the request. Within ten business days of receipt of the notice, the
12 submitting entity shall provide a written statement of the continuing
13 need for confidentiality, which shall be provided to the requester.
14 Upon receipt of such notice, the department of health shall continue to
15 treat information designated under this section as exempt from
16 disclosure. If the requester initiates an action to compel disclosure
17 under this chapter, the submitting entity must be joined as a party to
18 demonstrate the continuing need for confidentiality.

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

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

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

32 (ss) Credit card numbers, debit card numbers, electronic check
33 numbers, card expiration dates, or bank or other financial account
34 numbers, except when disclosure is expressly required by or governed by
35 other law.

36 (tt) Financial information, including but not limited to account
37 numbers and values, and other identification numbers supplied by or on

1 behalf of a person, firm, corporation, limited liability company,
2 partnership, or other entity related to an application for a liquor
3 license, gambling license, or lottery retail license.

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

7 (vv) Individually identifiable information received by the work
8 force training and education coordinating board for research or
9 evaluation purposes.

10 (ww) Those portions of records assembled, prepared, or maintained
11 to prevent, mitigate, or respond to criminal terrorist acts, which are
12 acts that significantly disrupt the conduct of government or of the
13 general civilian population of the state or the United States and that
14 manifest an extreme indifference to human life, the public disclosure
15 of which would have a substantial likelihood of threatening public
16 safety, consisting of:

17 (i) Specific and unique vulnerability assessments or specific and
18 unique response or deployment plans, including compiled underlying data
19 collected in preparation of or essential to the assessments, or to the
20 response or deployment plans; and

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

26 (xx) Commercial fishing catch data from logbooks required to be
27 provided to the department of fish and wildlife under RCW 77.12.047,
28 when the data identifies specific catch location, timing, or
29 methodology and the release of which would result in unfair competitive
30 disadvantage to the commercial fisher providing the catch data.
31 However, this information may be released to government agencies
32 concerned with the management of fish and wildlife resources.

33 (yy) Sensitive wildlife data obtained by the department of fish and
34 wildlife. However, sensitive wildlife data may be released to
35 government agencies concerned with the management of fish and wildlife
36 resources. Sensitive wildlife data includes:

37 (i) The nesting sites or specific locations of endangered species

1 designated under RCW 77.12.020, or threatened or sensitive species
2 classified by rule of the department of fish and wildlife;

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

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

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

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

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

13 (zz) The personally identifying information of persons who acquire
14 recreational licenses under RCW 77.32.010 or commercial licenses under
15 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
16 department, and type of license, endorsement, or tag. However, the
17 department of fish and wildlife may disclose personally identifying
18 information to:

19 (i) Government agencies concerned with the management of fish and
20 wildlife resources;

21 (ii) The department of social and health services, child support
22 division, and to the department of licensing in order to implement RCW
23 77.32.014 and 46.20.291; and

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

26 (aaa)(i) Discharge papers of a veteran of the armed forces of the
27 United States filed at the office of the county auditor before July 1,
28 2002, that have not been commingled with other recorded documents.
29 These records will be available only to the veteran, the veteran's next
30 of kin, a deceased veteran's properly appointed personal representative
31 or executor, a person holding that veteran's general power of attorney,
32 or to anyone else designated in writing by that veteran to receive the
33 records.

34 (ii) Discharge papers of a veteran of the armed forces of the
35 United States filed at the office of the county auditor before July 1,
36 2002, that have been commingled with other records, if the veteran has
37 recorded a "request for exemption from public disclosure of discharge
38 papers" with the county auditor. If such a request has been recorded,

1 these records may be released only to the veteran filing the papers,
2 the veteran's next of kin, a deceased veteran's properly appointed
3 personal representative or executor, a person holding the veteran's
4 general power of attorney, or anyone else designated in writing by the
5 veteran to receive the records.

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

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

16 (bbb) Those portions of records containing specific and unique
17 vulnerability assessments or specific and unique emergency and escape
18 response plans at a city, county, or state adult or juvenile
19 correctional facility, the public disclosure of which would have a
20 substantial likelihood of threatening the security of a city, county,
21 or state adult or juvenile correctional facility or any individual's
22 safety.

23 (ccc) Information compiled by school districts or schools in the
24 development of their comprehensive safe school plans pursuant to RCW
25 28A.320.125, to the extent that they identify specific vulnerabilities
26 of school districts and each individual school.

27 (ddd) Information regarding the infrastructure and security of
28 computer and telecommunications networks, consisting of security
29 passwords, security access codes and programs, access codes for secure
30 software applications, security and service recovery plans, security
31 risk assessments, and security test results to the extent that they
32 identify specific system vulnerabilities.

33 (eee) Information obtained and exempted or withheld from public
34 inspection by the health care authority under RCW 41.05.026, whether
35 retained by the authority, transferred to another state purchased
36 health care program by the authority, or transferred by the authority
37 to a technical review committee created to facilitate the development,

1 acquisition, or implementation of state purchased health care under
2 chapter 41.05 RCW.

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

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

12 (hhh) Financial, commercial, operations, and technical and research
13 information and data submitted to or obtained by the life sciences
14 discovery fund authority in applications for, or delivery of, grants
15 under chapter 43.-- RCW (sections 1 through 8 of this act), to the
16 extent that such information, if revealed, would reasonably be expected
17 to result in private loss to the providers of this information.

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

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

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

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

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

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

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

8 (c) Information required of any taxpayer in connection with the
9 assessment or collection of any tax if the disclosure of the
10 information to other persons would (i) be prohibited to such persons by
11 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
12 taxpayer's right to privacy or result in unfair competitive
13 disadvantage to the taxpayer.

14 (d) Specific intelligence information and specific investigative
15 records compiled by investigative, law enforcement, and penology
16 agencies, and state agencies vested with the responsibility to
17 discipline members of any profession, the nondisclosure of which is
18 essential to effective law enforcement or for the protection of any
19 person's right to privacy.

20 (e) Information revealing the identity of persons who are witnesses
21 to or victims of crime or who file complaints with investigative, law
22 enforcement, or penology agencies, other than the public disclosure
23 commission, if disclosure would endanger any person's life, physical
24 safety, or property. If at the time a complaint is filed the
25 complainant, victim or witness indicates a desire for disclosure or
26 nondisclosure, such desire shall govern. However, all complaints filed
27 with the public disclosure commission about any elected official or
28 candidate for public office must be made in writing and signed by the
29 complainant under oath.

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

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

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

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

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

13 (k) Records, maps, or other information identifying the location of
14 archaeological sites in order to avoid the looting or depredation of
15 such sites.

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

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

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

28 (o) Financial and commercial information and records supplied by
29 private persons pertaining to export services provided pursuant to
30 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
31 export projects pursuant to RCW 43.23.035.

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

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

37 (r) Financial and commercial information and records supplied by
38 businesses or individuals during application for loans or program

1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
2 or during application for economic development loans or program
3 services provided by any local agency.

4 (s) Membership lists or lists of members or owners of interests of
5 units in timeshare projects, subdivisions, camping resorts,
6 condominiums, land developments, or common-interest communities
7 affiliated with such projects, regulated by the department of
8 licensing, in the files or possession of the department.

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

12 (u) The residential addresses or residential telephone numbers of
13 employees or volunteers of a public agency which are held by any public
14 agency in personnel records, public employment related records, or
15 volunteer rosters, or are included in any mailing list of employees or
16 volunteers of any public agency.

17 (v) The residential addresses and residential telephone numbers of
18 the customers of a public utility contained in the records or lists
19 held by the public utility of which they are customers, except that
20 this information may be released to the division of child support or
21 the agency or firm providing child support enforcement for another
22 state under Title IV-D of the federal social security act, for the
23 establishment, enforcement, or modification of a support order.

24 (w)(i) The federal social security number of individuals governed
25 under chapter 18.130 RCW maintained in the files of the department of
26 health, except this exemption does not apply to requests made directly
27 to the department from federal, state, and local agencies of
28 government, and national and state licensing, credentialing,
29 investigatory, disciplinary, and examination organizations; (ii) the
30 current residential address and current residential telephone number of
31 a health care provider governed under chapter 18.130 RCW maintained in
32 the files of the department, if the provider requests that this
33 information be withheld from public inspection and copying, and
34 provides to the department an accurate alternate or business address
35 and business telephone number. On or after January 1, 1995, the
36 current residential address and residential telephone number of a
37 health care provider governed under RCW 18.130.040 maintained in the
38 files of the department shall automatically be withheld from public

1 inspection and copying unless the provider specifically requests the
2 information be released, and except as provided for under RCW
3 42.17.260(9).

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

6 (y) Information obtained by the board of pharmacy or the department
7 of health and its representatives as provided in RCW 69.41.044,
8 69.41.280, and 18.64.420.

9 (z) Financial information, business plans, examination reports, and
10 any information produced or obtained in evaluating or examining a
11 business and industrial development corporation organized or seeking
12 certification under chapter 31.24 RCW.

13 (aa) Financial and commercial information supplied to the state
14 investment board by any person when the information relates to the
15 investment of public trust or retirement funds and when disclosure
16 would result in loss to such funds or in private loss to the providers
17 of this information.

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

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

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

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

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

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

1 (hh) Information and documents created specifically for, and
2 collected and maintained by a quality improvement committee pursuant to
3 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
4 4.24.250, regardless of which agency is in possession of the
5 information and documents.

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

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

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

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

21 (mm) The personally identifying information of current or former
22 participants or applicants in a paratransit or other transit service
23 operated for the benefit of persons with disabilities or elderly
24 persons.

25 (nn) The personally identifying information of persons who acquire
26 and use transit passes and other fare payment media including, but not
27 limited to, stored value smart cards and magnetic strip cards, except
28 that an agency may disclose this information to a person, employer,
29 educational institution, or other entity that is responsible, in whole
30 or in part, for payment of the cost of acquiring or using a transit
31 pass or other fare payment media, or to the news media when reporting
32 on public transportation or public safety. This information may also
33 be disclosed at the agency's discretion to governmental agencies or
34 groups concerned with public transportation or public safety.

35 (oo) Proprietary financial and commercial information that the
36 submitting entity, with review by the department of health,
37 specifically identifies at the time it is submitted and that is
38 provided to or obtained by the department of health in connection with

1 an application for, or the supervision of, an antitrust exemption
2 sought by the submitting entity under RCW 43.72.310. If a request for
3 such information is received, the submitting entity must be notified of
4 the request. Within ten business days of receipt of the notice, the
5 submitting entity shall provide a written statement of the continuing
6 need for confidentiality, which shall be provided to the requester.
7 Upon receipt of such notice, the department of health shall continue to
8 treat information designated under this section as exempt from
9 disclosure. If the requester initiates an action to compel disclosure
10 under this chapter, the submitting entity must be joined as a party to
11 demonstrate the continuing need for confidentiality.

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

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

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

25 (ss) Credit card numbers, debit card numbers, electronic check
26 numbers, card expiration dates, or bank or other financial account
27 numbers, except when disclosure is expressly required by or governed by
28 other law.

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30 numbers and values, and other identification numbers supplied by or on
31 behalf of a person, firm, corporation, limited liability company,
32 partnership, or other entity related to an application for a liquor
33 license, gambling license, or lottery retail license.

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

37 (vv) Individually identifiable information received by the work

1 force training and education coordinating board for research or
2 evaluation purposes.

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4 to prevent, mitigate, or respond to criminal terrorist acts, which are
5 acts that significantly disrupt the conduct of government or of the
6 general civilian population of the state or the United States and that
7 manifest an extreme indifference to human life, the public disclosure
8 of which would have a substantial likelihood of threatening public
9 safety, consisting of:

10 (i) Specific and unique vulnerability assessments or specific and
11 unique response or deployment plans, including compiled underlying data
12 collected in preparation of or essential to the assessments, or to the
13 response or deployment plans; and

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

19 (xx) Commercial fishing catch data from logbooks required to be
20 provided to the department of fish and wildlife under RCW 77.12.047,
21 when the data identifies specific catch location, timing, or
22 methodology and the release of which would result in unfair competitive
23 disadvantage to the commercial fisher providing the catch data.
24 However, this information may be released to government agencies
25 concerned with the management of fish and wildlife resources.

26 (yy) Sensitive wildlife data obtained by the department of fish and
27 wildlife. However, sensitive wildlife data may be released to
28 government agencies concerned with the management of fish and wildlife
29 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

5 (zz) The personally identifying information of persons who acquire
6 recreational licenses under RCW 77.32.010 or commercial licenses under
7 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
8 department, and type of license, endorsement, or tag. However, the
9 department of fish and wildlife may disclose personally identifying
10 information to:

11 (i) Government agencies concerned with the management of fish and
12 wildlife resources;

13 (ii) The department of social and health services, child support
14 division, and to the department of licensing in order to implement RCW
15 77.32.014 and 46.20.291; and

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

18 (aaa)(i) Discharge papers of a veteran of the armed forces of the
19 United States filed at the office of the county auditor before July 1,
20 2002, that have not been commingled with other recorded documents.
21 These records will be available only to the veteran, the veteran's next
22 of kin, a deceased veteran's properly appointed personal representative
23 or executor, a person holding that veteran's general power of attorney,
24 or to anyone else designated in writing by that veteran to receive the
25 records.

26 (ii) Discharge papers of a veteran of the armed forces of the
27 United States filed at the office of the county auditor before July 1,
28 2002, that have been commingled with other records, if the veteran has
29 recorded a "request for exemption from public disclosure of discharge
30 papers" with the county auditor. If such a request has been recorded,
31 these records may be released only to the veteran filing the papers,
32 the veteran's next of kin, a deceased veteran's properly appointed
33 personal representative or executor, a person holding the veteran's
34 general power of attorney, or anyone else designated in writing by the
35 veteran to receive the records.

36 (iii) Discharge papers of a veteran filed at the office of the
37 county auditor after June 30, 2002, are not public records, but will be
38 available only to the veteran, the veteran's next of kin, a deceased

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

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

8 (bbb) Those portions of records containing specific and unique
9 vulnerability assessments or specific and unique emergency and escape
10 response plans at a city, county, or state adult or juvenile
11 correctional facility, the public disclosure of which would have a
12 substantial likelihood of threatening the security of a city, county,
13 or state adult or juvenile correctional facility or any individual's
14 safety.

15 (ccc) Information compiled by school districts or schools in the
16 development of their comprehensive safe school plans pursuant to RCW
17 28A.320.125, to the extent that they identify specific vulnerabilities
18 of school districts and each individual school.

19 (ddd) Information regarding the infrastructure and security of
20 computer and telecommunications networks, consisting of security
21 passwords, security access codes and programs, access codes for secure
22 software applications, security and service recovery plans, security
23 risk assessments, and security test results to the extent that they
24 identify specific system vulnerabilities.

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26 inspection by the health care authority under RCW 41.05.026, whether
27 retained by the authority, transferred to another state purchased
28 health care program by the authority, or transferred by the authority
29 to a technical review committee created to facilitate the development,
30 acquisition, or implementation of state purchased health care under
31 chapter 41.05 RCW.

32 (fff) Proprietary data, trade secrets, or other information that
33 relates to: (i) A vendor's unique methods of conducting business; (ii)
34 data unique to the product or services of the vendor; or (iii)
35 determining prices or rates to be charged for services, submitted by
36 any vendor to the department of social and health services for purposes
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1 (ggg) Financial, commercial, operations, and technical and research
2 information and data submitted to or obtained by the life sciences
3 discovery fund authority in applications for, or delivery of, grants
4 under chapter 43.-- RCW (sections 1 through 8 of this act), to the
5 extent that such information, if revealed, would reasonably be expected
6 to result in private loss to the providers of this information.

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

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

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

25 **Sec. 17.** RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are
26 each reenacted and amended to read as follows:

27 For the purposes of RCW 42.17.240, the term "executive state
28 officer" includes:

29 (1) The chief administrative law judge, the director of
30 agriculture, the administrator of the Washington basic health plan, the
31 director of the department of services for the blind, the director of
32 the state system of community and technical colleges, the director of
33 community, trade, and economic development, the secretary of
34 corrections, the director of ecology, the commissioner of employment
35 security, the ((~~chairman~~)) chair of the energy facility site evaluation
36 council, the secretary of the state finance committee, the director of
37 financial management, the director of fish and wildlife, the executive

1 secretary of the forest practices appeals board, the director of the
2 gambling commission, the director of general administration, the
3 secretary of health, the administrator of the Washington state health
4 care authority, the executive secretary of the health care facilities
5 authority, the executive secretary of the higher education facilities
6 authority, the executive secretary of the horse racing commission, the
7 executive secretary of the human rights commission, the executive
8 secretary of the indeterminate sentence review board, the director of
9 the department of information services, the director of the interagency
10 committee for outdoor recreation, the executive director of the state
11 investment board, the director of labor and industries, the director of
12 licensing, the director of the lottery commission, the director of the
13 office of minority and women's business enterprises, the director of
14 parks and recreation, the director of personnel, the executive director
15 of the public disclosure commission, the director of retirement
16 systems, the director of revenue, the secretary of social and health
17 services, the chief of the Washington state patrol, the executive
18 secretary of the board of tax appeals, the secretary of transportation,
19 the secretary of the utilities and transportation commission, the
20 director of veterans affairs, the president of each of the regional and
21 state universities and the president of The Evergreen State College,
22 each district and each campus president of each state community
23 college;

24 (2) Each professional staff member of the office of the governor;

25 (3) Each professional staff member of the legislature; and

26 (4) Central Washington University board of trustees, board of
27 trustees of each community college, each member of the state board for
28 community and technical colleges, state convention and trade center
29 board of directors, committee for deferred compensation, Eastern
30 Washington University board of trustees, Washington economic
31 development finance authority, The Evergreen State College board of
32 trustees, executive ethics board, forest practices appeals board,
33 forest practices board, gambling commission, life sciences discovery
34 fund authority board of trustees, Washington health care facilities
35 authority, each member of the Washington health services commission,
36 higher education coordinating board, higher education facilities
37 authority, horse racing commission, state housing finance commission,
38 human rights commission, indeterminate sentence review board, board of

1 industrial insurance appeals, information services board, interagency
2 committee for outdoor recreation, state investment board, commission on
3 judicial conduct, legislative ethics board, liquor control board,
4 lottery commission, marine oversight board, Pacific Northwest electric
5 power and conservation planning council, parks and recreation
6 commission, personnel appeals board, board of pilotage commissioners,
7 pollution control hearings board, public disclosure commission, public
8 pension commission, shorelines hearing board, public employees'
9 benefits board, salmon recovery funding board, board of tax appeals,
10 transportation commission, University of Washington board of regents,
11 utilities and transportation commission, Washington state maritime
12 commission, Washington personnel resources board, Washington public
13 power supply system executive board, Washington State University board
14 of regents, Western Washington University board of trustees, and fish
15 and wildlife commission.

16 **Sec. 18.** RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 are
17 each reenacted and amended to read as follows:

18 (1) Money in the treasurer's trust fund may be deposited, invested,
19 and reinvested by the state treasurer in accordance with RCW 43.84.080
20 in the same manner and to the same extent as if the money were in the
21 state treasury.

22 (2) All income received from investment of the treasurer's trust
23 fund shall be set aside in an account in the treasury trust fund to be
24 known as the investment income account.

25 (3) The investment income account may be utilized for the payment
26 of purchased banking services on behalf of treasurer's trust funds
27 including, but not limited to, depository, safekeeping, and
28 disbursement functions for the state treasurer or affected state
29 agencies. The investment income account is subject in all respects to
30 chapter 43.88 RCW, but no appropriation is required for payments to
31 financial institutions. Payments shall occur prior to distribution of
32 earnings set forth in subsection (4) of this section.

33 (4)(a) Monthly, the state treasurer shall distribute the earnings
34 credited to the investment income account to the state general fund
35 except under (b) and (c) of this subsection.

36 (b) The following accounts and funds shall receive their
37 proportionate share of earnings based upon each account's or fund's

1 average daily balance for the period: The Washington promise
2 scholarship account, the college savings program account, the
3 Washington advanced college tuition payment program account, the
4 agricultural local fund, the American Indian scholarship endowment
5 fund, the students with dependents grant account, the basic health plan
6 self-insurance reserve account, the contract harvesting revolving
7 account, the Washington state combined fund drive account, the
8 Washington international exchange scholarship endowment fund, the
9 developmental disabilities endowment trust fund, the energy account,
10 the fair fund, the fruit and vegetable inspection account, the future
11 teachers conditional scholarship account, the game farm alternative
12 account, the grain inspection revolving fund, the juvenile
13 accountability incentive account, the law enforcement officers' and
14 fire fighters' plan 2 expense fund, the local tourism promotion
15 account, the produce railcar pool account, the rural rehabilitation
16 account, the stadium and exhibition center account, the youth athletic
17 facility account, the self-insurance revolving fund, the sulfur dioxide
18 abatement account, the children's trust fund, the Washington horse
19 racing commission Washington bred owners' bonus fund account, the
20 Washington horse racing commission class C purse fund account, ((and))
21 the Washington horse racing commission operating account (earnings from
22 the Washington horse racing commission operating account must be
23 credited to the Washington horse racing commission class C purse fund
24 account), and the life sciences discovery fund. However, the earnings
25 to be distributed shall first be reduced by the allocation to the state
26 treasurer's service fund pursuant to RCW 43.08.190.

27 (c) The following accounts and funds shall receive eighty percent
28 of their proportionate share of earnings based upon each account's or
29 fund's average daily balance for the period: The advanced right of way
30 revolving fund, the advanced environmental mitigation revolving
31 account, the city and county advance right-of-way revolving fund, the
32 federal narcotics asset forfeitures account, the high occupancy vehicle
33 account, the local rail service assistance account, and the
34 miscellaneous transportation programs account.

35 (5) In conformance with Article II, section 37 of the state
36 Constitution, no trust accounts or funds shall be allocated earnings
37 without the specific affirmative directive of this section.

1 NEW SECTION. **Sec. 19.** CAPTIONS. Captions used in this act are
2 not any part of the law.

3 NEW SECTION. **Sec. 20.** LIBERAL CONSTRUCTION. This act, being
4 necessary for the welfare of the state and its inhabitants, shall be
5 liberally construed.

6 NEW SECTION. **Sec. 21.** CODIFICATION. Sections 1 through 8 of this
7 act constitute a new chapter in Title 43 RCW.

8 NEW SECTION. **Sec. 22.** SEVERABILITY. If any provision of this act
9 or its application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 23.** EXPIRATION DATES. Section 15 of this act
13 expires June 30, 2005.

14 NEW SECTION. **Sec. 24.** EFFECTIVE DATE. This act is necessary for
15 the immediate preservation of the public peace, health, or safety, or
16 support of the state government and its existing public institutions,
17 and takes effect immediately, except for section 16 of this act, which
18 takes effect June 30, 2005.

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