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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1019

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State of Washington

58th Legislature

2004 Regular Session

By House Committee on State Government (originally sponsored by Representatives Nixon, Ruderman, Lantz, Woods and Upthegrove)

READ FIRST TIME 01/27/04.

1 AN ACT Relating to protection of identification of persons who pay  
2 tolls electronically; reenacting and amending RCW 42.17.310 and  
3 42.17.310; providing an effective date; and providing an expiration  
4 date.

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

6 **Sec. 1.** RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277 s  
7 3, and 2003 c 124 s 1 are each reenacted and amended to read as  
8 follows:

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

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

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

16 (c) Information required of any taxpayer in connection with the  
17 assessment or collection of any tax if the disclosure of the  
18 information to other persons would (i) be prohibited to such persons by

1 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
2 taxpayer's right to privacy or result in unfair competitive  
3 disadvantage to the taxpayer.

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

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

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

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

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

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

37 (j) Records which are relevant to a controversy to which an agency

1 is a party but which records would not be available to another party  
2 under the rules of pretrial discovery for causes pending in the  
3 superior courts.

4 (k) Records, maps, or other information identifying the location of  
5 archaeological sites in order to avoid the looting or depredation of  
6 such sites.

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

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

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

19 (o) Financial and commercial information and records supplied by  
20 private persons pertaining to export services provided pursuant to  
21 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
22 export projects pursuant to RCW 43.23.035.

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

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

28 (r) Financial and commercial information and records supplied by  
29 businesses or individuals during application for loans or program  
30 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
31 or during application for economic development loans or program  
32 services provided by any local agency.

33 (s) Membership lists or lists of members or owners of interests of  
34 units in timeshare projects, subdivisions, camping resorts,  
35 condominiums, land developments, or common-interest communities  
36 affiliated with such projects, regulated by the department of  
37 licensing, in the files or possession of the department.

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

4 (u) The residential addresses or residential telephone numbers of  
5 employees or volunteers of a public agency which are held by any public  
6 agency in personnel records, public employment related records, or  
7 volunteer rosters, or are included in any mailing list of employees or  
8 volunteers of any public agency.

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

16 (w)(i) The federal social security number of individuals governed  
17 under chapter 18.130 RCW maintained in the files of the department of  
18 health, except this exemption does not apply to requests made directly  
19 to the department from federal, state, and local agencies of  
20 government, and national and state licensing, credentialing,  
21 investigatory, disciplinary, and examination organizations; (ii) the  
22 current residential address and current residential telephone number of  
23 a health care provider governed under chapter 18.130 RCW maintained in  
24 the files of the department, if the provider requests that this  
25 information be withheld from public inspection and copying, and  
26 provides to the department an accurate alternate or business address  
27 and business telephone number. On or after January 1, 1995, the  
28 current residential address and residential telephone number of a  
29 health care provider governed under RCW 18.130.040 maintained in the  
30 files of the department shall automatically be withheld from public  
31 inspection and copying unless the provider specifically requests the  
32 information be released, and except as provided for under RCW  
33 42.17.260(9).

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

36 (y) Information obtained by the board of pharmacy or the department  
37 of health and its representatives as provided in RCW 69.41.044,  
38 69.41.280, and 18.64.420.

1 (z) Financial information, business plans, examination reports, and  
2 any information produced or obtained in evaluating or examining a  
3 business and industrial development corporation organized or seeking  
4 certification under chapter 31.24 RCW.

5 (aa) Financial and commercial information supplied to the state  
6 investment board by any person when the information relates to the  
7 investment of public trust or retirement funds and when disclosure  
8 would result in loss to such funds or in private loss to the providers  
9 of this information.

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

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

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

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

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

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

30 (hh) Information and documents created specifically for, and  
31 collected and maintained by a quality improvement committee pursuant to  
32 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
33 4.24.250, regardless of which agency is in possession of the  
34 information and documents.

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

37 (jj) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses  
2 the stadium and exhibition center as defined in RCW 36.102.010.

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

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

13 (mm) The personally identifying information of current or former  
14 participants or applicants in a paratransit or other transit service  
15 operated for the benefit of persons with disabilities or elderly  
16 persons.

17 (nn) The personally identifying information of persons who acquire  
18 and use transit passes transponders or other technology to facilitate  
19 payment of tolls, and other fare payment media including, but not  
20 limited to, stored value smart cards and magnetic strip cards, except  
21 that an agency may disclose this information to a person, employer,  
22 educational institution, or other entity that is responsible, in whole  
23 or in part, for payment of the cost of acquiring or using a transit  
24 pass, transponder, or other fare payment media(~~(, or to the news media~~  
25 ~~when reporting on public transportation or public safety)~~). This  
26 information may also be disclosed in aggregate form at the agency's  
27 discretion to governmental agencies or groups concerned with public  
28 transportation or public safety as long as the data does not contain  
29 any personally identifying information. For these purposes aggregate  
30 data may include identification of the census tract of the account  
31 holder as long as personally identifying information is not released.  
32 Personally identifying information may be released to law enforcement  
33 agencies only if the request is accompanied by a court order, except  
34 that personally identifying information may be released to law  
35 enforcement agencies for any toll enforcement purpose without a court  
36 order.

37 (oo) Proprietary financial and commercial information that the  
38 submitting entity, with review by the department of health,

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

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

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

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

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

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

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

1 (vv) Individually identifiable information received by the work  
2 force training and education coordinating board for research or  
3 evaluation purposes.

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

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

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

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

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

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

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

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



- 1 (A) The species has a known commercial or black market value;  
2 (B) There is a history of malicious take of that species; or  
3 (C) There is a known demand to visit, take, or disturb, and the  
4 species behavior or ecology renders it especially vulnerable or the  
5 species has an extremely limited distribution and concentration.

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

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

14 (ii) The department of social and health services, child support  
15 division, and to the department of licensing in order to implement RCW  
16 77.32.014 and 46.20.291; and

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

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

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

37 (iii) Discharge papers of a veteran filed at the office of the  
38 county auditor after June 30, 2002, are not public records, but will be

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

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

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

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

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

26 (eee) Information obtained and exempted or withheld from public  
27 inspection by the health care authority under RCW 41.05.026, whether  
28 retained by the authority, transferred to another state purchased  
29 health care program by the authority, or transferred by the authority  
30 to a technical review committee created to facilitate the development,  
31 acquisition, or implementation of state purchased health care under  
32 chapter 41.05 RCW.

33 (fff) Proprietary data, trade secrets, or other information that  
34 relates to: (i) A vendor's unique methods of conducting business; (ii)  
35 data unique to the product or services of the vendor; or (iii)  
36 determining prices or rates to be charged for services, submitted by  
37 any vendor to the department of social and health services for purposes

1 of the development, acquisition, or implementation of state purchased  
2 health care as defined in RCW 41.05.011.

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

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

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

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

23 **Sec. 2.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are  
24 each reenacted and amended to read as follows:

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

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

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

32 (c) Information required of any taxpayer in connection with the  
33 assessment or collection of any tax if the disclosure of the  
34 information to other persons would (i) be prohibited to such persons by  
35 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
36 taxpayer's right to privacy or result in unfair competitive  
37 disadvantage to the taxpayer.

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2 records compiled by investigative, law enforcement, and penology  
3 agencies, and state agencies vested with the responsibility to  
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11 safety, or property. If at the time a complaint is filed the  
12 complainant, victim or witness indicates a desire for disclosure or  
13 nondisclosure, such desire shall govern. However, all complaints filed  
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27 object code, and research data obtained by any agency within five years  
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32 recommended except that a specific record shall not be exempt when  
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2 archaeological sites in order to avoid the looting or depredation of  
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34 licensing, in the files or possession of the department.

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

1 (u) The residential addresses or residential telephone numbers of  
2 employees or volunteers of a public agency which are held by any public  
3 agency in personnel records, public employment related records, or  
4 volunteer rosters, or are included in any mailing list of employees or  
5 volunteers of any public agency.

6 (v) The residential addresses and residential telephone numbers of  
7 the customers of a public utility contained in the records or lists  
8 held by the public utility of which they are customers, except that  
9 this information may be released to the division of child support or  
10 the agency or firm providing child support enforcement for another  
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12 establishment, enforcement, or modification of a support order.

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17 government, and national and state licensing, credentialing,  
18 investigatory, disciplinary, and examination organizations; (ii) the  
19 current residential address and current residential telephone number of  
20 a health care provider governed under chapter 18.130 RCW maintained in  
21 the files of the department, if the provider requests that this  
22 information be withheld from public inspection and copying, and  
23 provides to the department an accurate alternate or business address  
24 and business telephone number. On or after January 1, 1995, the  
25 current residential address and residential telephone number of a  
26 health care provider governed under RCW 18.130.040 maintained in the  
27 files of the department shall automatically be withheld from public  
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11 crisis center as defined in RCW 70.125.030.

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

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

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

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

28 (hh) Information and documents created specifically for, and  
29 collected and maintained by a quality improvement committee pursuant to  
30 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
31 4.24.250, regardless of which agency is in possession of the  
32 information and documents.

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

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

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

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

11 (mm) The personally identifying information of current or former  
12 participants or applicants in a paratransit or other transit service  
13 operated for the benefit of persons with disabilities or elderly  
14 persons.

15 (nn) The personally identifying information of persons who acquire  
16 and use transit passes transponders or other technology to facilitate  
17 payment of tolls, and other fare payment media including, but not  
18 limited to, stored value smart cards and magnetic strip cards, except  
19 that an agency may disclose this information to a person, employer,  
20 educational institution, or other entity that is responsible, in whole  
21 or in part, for payment of the cost of acquiring or using a transit  
22 pass, transponder, or other fare payment media (~~(, or to the news media~~  
23 ~~when reporting on public transportation or public safety)~~). This  
24 information may also be disclosed in aggregate form at the agency's  
25 discretion to governmental agencies or groups concerned with public  
26 transportation or public safety as long as the data does not contain  
27 any personally identifying information. For these purposes aggregate  
28 data may include identification of the census tract of the account  
29 holder as long as personally identifying information is not released.  
30 Personally identifying information may be released to law enforcement  
31 agencies only if the request is accompanied by a court order, except  
32 that personally identifying information may be released to law  
33 enforcement agencies for any toll enforcement purpose without a court  
34 order.

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.

29 (tt) Financial information, including but not limited to account  
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.

3 (ww) Those portions of records assembled, prepared, or maintained  
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.

25 (eee) Information obtained and exempted or withheld from public  
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  
37 of the development, acquisition, or implementation of state purchased  
38 health care as defined in RCW 41.05.011.

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

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

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

19 NEW SECTION. **Sec. 3.** Section 1 of this act expires June 30, 2005.

20 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect June 30,  
21 2005.

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