
SUBSTITUTE SENATE BILL 5201

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Kastama, Swecker, Johnson, Benton, Weinstein and Shin; by request of Department of Transportation)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to high-occupancy toll lanes; amending RCW
2 43.84.092; reenacting and amending RCW 42.17.310, 42.17.310, and
3 43.84.092; adding new sections to chapter 47.56 RCW; adding a new
4 section to chapter 47.66 RCW; creating new sections; prescribing
5 penalties; providing effective dates; providing expiration dates; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature
9 recognizes that the Puget Sound region is faced with growing traffic
10 congestion and has limited ability to expand freeway capacity due to
11 financial, environmental, and physical constraints. Freeway high-
12 occupancy vehicle lanes have been an effective means of providing
13 transit, vanpools, and carpools with a fast trip on congested freeway
14 corridors, but in many cases, these lanes are themselves getting
15 crowded during the peak commute times, while some are being underused
16 at off-peak times.

17 It is the intent of the legislature to maximize the effectiveness
18 and efficiency of the freeway system. To evaluate methods to
19 accomplish this, it is beneficial to evaluate alternative approaches to

1 managing the use of freeway high-occupancy vehicle lanes, including
2 pilot projects to determine and demonstrate the effectiveness and
3 benefits of implementing high-occupancy toll lanes. The legislature
4 acknowledges that state route 167 provides an ideal test of the high-
5 occupancy toll lane concept because it is a congested corridor, it has
6 underused capacity in the high-occupancy vehicle lane, and it has
7 adequate right of way for improvements needed to test the concept.
8 Therefore, it is the intent of this act to direct that the department
9 of transportation, as a pilot project, develop and operate a high-
10 occupancy toll lane on state route 167 in King county and to conduct an
11 evaluation of that project to determine impacts on freeway efficiency,
12 effectiveness for transit, feasibility of financing improvements
13 through tolls, and the impacts on freeway users.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.56 RCW
15 to read as follows:

16 DEFINITION OF HIGH-OCCUPANCY TOLL LANES. For the purposes of RCW
17 46.61.165 and sections 3 and 4 of this act, "high-occupancy toll lanes"
18 means one or more lanes of a highway that charges tolls as a means of
19 regulating access to or the use of the facility, to maintain travel
20 speed and reliability. Supporting facilities include, but are not
21 limited to, approaches, enforcement areas, improvements, buildings, and
22 equipment.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.56 RCW
24 to read as follows:

25 AUTHORITY TO DESIGNATE STATE ROUTE 167 HIGH-OCCUPANCY TOLL LANE
26 PILOT PROJECT. (1) The department may provide for the establishment,
27 construction, and operation of a pilot project of high-occupancy toll
28 lanes on state route 167 high-occupancy vehicle lanes within King
29 county. The department may issue, buy, and redeem bonds, and deposit
30 and expend them; secure and remit financial and other assistance in the
31 construction of high-occupancy toll lanes, carry insurance, and handle
32 any other matters pertaining to the high-occupancy toll lane pilot
33 project.

34 (2) Tolls for high-occupancy toll lanes will be established as
35 follows:

1 (a) The schedule of toll charges for high-occupancy toll lanes must
2 be established by the transportation commission and collected in a
3 manner determined by the commission.

4 (b) Toll charges shall not be assessed on transit buses and vanpool
5 vehicles owned or operated by any public agency.

6 (c) The department shall establish performance standards for the
7 state route 167 high-occupancy toll lane pilot project. The department
8 must automatically adjust the toll charge, using dynamic tolling, to
9 ensure that toll-paying single-occupant vehicle users are only
10 permitted to enter the lane to the extent that average vehicle speeds
11 in the lane remain above forty-five miles per hour at least ninety
12 percent of the time during peak hours. The toll charge may vary in
13 amount by time of day, level of traffic congestion within the highway
14 facility, vehicle occupancy, or other criteria, as the commission may
15 deem appropriate. The commission may also vary toll charges for
16 single-occupant inherently low-emission vehicles such as those powered
17 by electric batteries, natural gas, propane, or other clean burning
18 fuels.

19 (d) The commission shall periodically review the toll charges to
20 determine if the toll charges are effectively maintaining travel time,
21 speed, and reliability on the highway facilities.

22 (3) The department shall monitor the state route 167 high-occupancy
23 toll lane pilot project and shall annually report to the transportation
24 commission and the legislature on operations and findings. At a
25 minimum, the department shall provide facility use data and review the
26 impacts on:

27 (a) Freeway efficiency and safety;

28 (b) Effectiveness for transit;

29 (c) Person and vehicle movements by mode;

30 (d) Ability to finance improvements and transportation services
31 through tolls; and

32 (e) The impacts on all highway users. The department shall analyze
33 aggregate use data and conduct, as needed, separate surveys to assess
34 usage of the facility in relation to geographic, socioeconomic, and
35 demographic information within the corridor in order to ascertain
36 actual and perceived questions of equitable use of the facility.

37 (4) The department shall modify the pilot project to address

1 identified safety issues and mitigate negative impacts to high-
2 occupancy vehicle lane users.

3 (5) Authorization to impose high-occupancy vehicle tolls for the
4 state route 167 high-occupancy toll pilot project expires if either of
5 the following two conditions apply:

6 (a) If no contracts have been let by the department to begin
7 construction of the toll facilities associated with this pilot project
8 within four years of the effective date of this section; or

9 (b) Four years after toll collection begins under this section.

10 (6) The department of transportation shall adopt rules that allow
11 automatic vehicle identification transponders used for electronic toll
12 collection to be compatible with other electronic payment devices or
13 transponders from the Washington state ferry system, other public
14 transportation systems, or other toll collection systems to the extent
15 that technology permits.

16 (7) The conversion of a single existing high-occupancy vehicle lane
17 to a high-occupancy toll lane as proposed for SR-167 must be taken as
18 the exception for this pilot project.

19 (8) A violation of the lane restrictions applicable to the high-
20 occupancy toll lanes established under this section is a traffic
21 infraction.

22 (9) Procurement activity associated with this pilot project shall
23 be open and competitive in accordance with chapter 39.29 RCW.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.66 RCW
25 to read as follows:

26 The high-occupancy toll lanes operations account is created in the
27 state treasury. The department shall deposit all revenues received by
28 the department as toll charges collected from high-occupancy toll lane
29 users. Moneys in this account may be spent only if appropriated by the
30 legislature. Moneys in this account may be used for, but be not
31 limited to, debt service, planning, administration, construction,
32 maintenance, operation, repair, rebuilding, enforcement, and expansion
33 of high-occupancy toll lanes and to increase transit, vanpool and
34 carpool, and trip reduction services in the corridor. A reasonable
35 proportion of the moneys in this account must be dedicated to increase
36 transit, vanpool, carpool, and trip reduction services in the corridor.

1 A reasonable proportion of the moneys in this account must be dedicated
2 to increase transit, vanpool, carpool, and trip reduction services in
3 the corridor.

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

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

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

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

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

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

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

36 (f) Test questions, scoring keys, and other examination data used
37 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) The personally identifying information of persons who acquire
13 and use transponders or other technology to facilitate payment of
14 tolls. This information may be disclosed in aggregate form as long as
15 the data does not contain any personally identifying information. For
16 these purposes aggregate data may include the census tract of the
17 account holder as long as any individual personally identifying
18 information is not released. Personally identifying information may be
19 released to law enforcement agencies only for toll enforcement
20 purposes. Personally identifying information may be released to law
21 enforcement agencies for other purposes only if the request is
22 accompanied by a court order.

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

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

37 (4) Agency responses refusing, in whole or in part, inspection of

1 any public record shall include a statement of the specific exemption
2 authorizing the withholding of the record (or part) and a brief
3 explanation of how the exemption applies to the record withheld.

4 **Sec. 6.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
5 each reenacted and amended to read as 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) The personally identifying information of persons who acquire
11 and use transponders or other technology to facilitate payment of
12 tolls. This information may be disclosed in aggregate form as long as
13 the data does not contain any personally identifying information. For
14 these purposes aggregate data may include the census tract of the
15 account holder as long as any individual personally identifying
16 information is not released. Personally identifying information may be
17 released to law enforcement agencies only for toll enforcement
18 purposes. Personally identifying information may be released to law
19 enforcement agencies for other purposes only if the request is
20 accompanied by a court order.

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

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

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

1 **Sec. 7.** RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003
2 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as
3 follows:

4 (1) All earnings of investments of surplus balances in the state
5 treasury shall be deposited to the treasury income account, which
6 account is hereby established in the state treasury.

7 (2) The treasury income account shall be utilized to pay or receive
8 funds associated with federal programs as required by the federal cash
9 management improvement act of 1990. The treasury income account is
10 subject in all respects to chapter 43.88 RCW, but no appropriation is
11 required for refunds or allocations of interest earnings required by
12 the cash management improvement act. Refunds of interest to the
13 federal treasury required under the cash management improvement act
14 fall under RCW 43.88.180 and shall not require appropriation. The
15 office of financial management shall determine the amounts due to or
16 from the federal government pursuant to the cash management improvement
17 act. The office of financial management may direct transfers of funds
18 between accounts as deemed necessary to implement the provisions of the
19 cash management improvement act, and this subsection. Refunds or
20 allocations shall occur prior to the distributions of earnings set
21 forth in subsection (4) of this section.

22 (3) Except for the provisions of RCW 43.84.160, the treasury income
23 account may be utilized for the payment of purchased banking services
24 on behalf of treasury funds including, but not limited to, depository,
25 safekeeping, and disbursement functions for the state treasury and
26 affected state agencies. The treasury income account is subject in all
27 respects to chapter 43.88 RCW, but no appropriation is required for
28 payments to financial institutions. Payments shall occur prior to
29 distribution of earnings set forth in subsection (4) of this section.

30 (4) Monthly, the state treasurer shall distribute the earnings
31 credited to the treasury income account. The state treasurer shall
32 credit the general fund with all the earnings credited to the treasury
33 income account except:

34 (a) The following accounts and funds shall receive their
35 proportionate share of earnings based upon each account's and fund's
36 average daily balance for the period: The capitol building
37 construction account, the Cedar River channel construction and
38 operation account, the Central Washington University capital projects

1 account, the charitable, educational, penal and reformatory
2 institutions account, the common school construction fund, the county
3 criminal justice assistance account, the county sales and use tax
4 equalization account, the data processing building construction
5 account, the deferred compensation administrative account, the deferred
6 compensation principal account, the department of retirement systems
7 expense account, the drinking water assistance account, the drinking
8 water assistance administrative account, the drinking water assistance
9 repayment account, the Eastern Washington University capital projects
10 account, the education construction fund, the election account, the
11 emergency reserve fund, The Evergreen State College capital projects
12 account, the federal forest revolving account, the health services
13 account, the public health services account, the health system capacity
14 account, the personal health services account, the state higher
15 education construction account, the higher education construction
16 account, the highway infrastructure account, the high-occupancy toll
17 lanes operations account, the industrial insurance premium refund
18 account, the judges' retirement account, the judicial retirement
19 administrative account, the judicial retirement principal account, the
20 local leasehold excise tax account, the local real estate excise tax
21 account, the local sales and use tax account, the medical aid account,
22 the mobile home park relocation fund, the multimodal transportation
23 account, the municipal criminal justice assistance account, the
24 municipal sales and use tax equalization account, the natural resources
25 deposit account, the oyster reserve land account, the perpetual
26 surveillance and maintenance account, the public employees' retirement
27 system plan 1 account, the public employees' retirement system combined
28 plan 2 and plan 3 account, the public facilities construction loan
29 revolving account beginning July 1, 2004, the public health
30 supplemental account, the public works assistance account, the Puyallup
31 tribal settlement account, the regional transportation investment
32 district account, the resource management cost account, the site
33 closure account, the special wildlife account, the state employees'
34 insurance account, the state employees' insurance reserve account, the
35 state investment board expense account, the state investment board
36 commingled trust fund accounts, the supplemental pension account, the
37 Tacoma Narrows toll bridge account, the teachers' retirement system
38 plan 1 account, the teachers' retirement system combined plan 2 and

1 plan 3 account, the tobacco prevention and control account, the tobacco
2 settlement account, the transportation infrastructure account, the
3 tuition recovery trust fund, the University of Washington bond
4 retirement fund, the University of Washington building account, the
5 volunteer fire fighters' and reserve officers' relief and pension
6 principal fund, the volunteer fire fighters' and reserve officers'
7 administrative fund, the Washington fruit express account, the
8 Washington judicial retirement system account, the Washington law
9 enforcement officers' and fire fighters' system plan 1 retirement
10 account, the Washington law enforcement officers' and fire fighters'
11 system plan 2 retirement account, the Washington school employees'
12 retirement system combined plan 2 and 3 account, the Washington state
13 health insurance pool account, the Washington state patrol retirement
14 account, the Washington State University building account, the
15 Washington State University bond retirement fund, the water pollution
16 control revolving fund, and the Western Washington University capital
17 projects account. Earnings derived from investing balances of the
18 agricultural permanent fund, the normal school permanent fund, the
19 permanent common school fund, the scientific permanent fund, and the
20 state university permanent fund shall be allocated to their respective
21 beneficiary accounts. All earnings to be distributed under this
22 subsection (4)(a) shall first be reduced by the allocation to the state
23 treasurer's service fund pursuant to RCW 43.08.190.

24 (b) The following accounts and funds shall receive eighty percent
25 of their proportionate share of earnings based upon each account's or
26 fund's average daily balance for the period: The aeronautics account,
27 the aircraft search and rescue account, the county arterial
28 preservation account, the department of licensing services account, the
29 essential rail assistance account, the ferry bond retirement fund, the
30 grade crossing protective fund, the high capacity transportation
31 account, the highway bond retirement fund, the highway safety account,
32 the motor vehicle fund, the motorcycle safety education account, the
33 pilotage account, the public transportation systems account, the Puget
34 Sound capital construction account, the Puget Sound ferry operations
35 account, the recreational vehicle account, the rural arterial trust
36 account, the safety and education account, the special category C
37 account, the state patrol highway account, the transportation 2003
38 account (nickel account), the transportation equipment fund, the

1 transportation fund, the transportation improvement account, the
2 transportation improvement board bond retirement account, and the urban
3 arterial trust account.

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

7 **Sec. 8.** RCW 43.84.092 and 2004 c 242 s 60 are each amended to read
8 as follows:

9 (1) All earnings of investments of surplus balances in the state
10 treasury shall be deposited to the treasury income account, which
11 account is hereby established in the state treasury.

12 (2) The treasury income account shall be utilized to pay or receive
13 funds associated with federal programs as required by the federal cash
14 management improvement act of 1990. The treasury income account is
15 subject in all respects to chapter 43.88 RCW, but no appropriation is
16 required for refunds or allocations of interest earnings required by
17 the cash management improvement act. Refunds of interest to the
18 federal treasury required under the cash management improvement act
19 fall under RCW 43.88.180 and shall not require appropriation. The
20 office of financial management shall determine the amounts due to or
21 from the federal government pursuant to the cash management improvement
22 act. The office of financial management may direct transfers of funds
23 between accounts as deemed necessary to implement the provisions of the
24 cash management improvement act, and this subsection. Refunds or
25 allocations shall occur prior to the distributions of earnings set
26 forth in subsection (4) of this section.

27 (3) Except for the provisions of RCW 43.84.160, the treasury income
28 account may be utilized for the payment of purchased banking services
29 on behalf of treasury funds including, but not limited to, depository,
30 safekeeping, and disbursement functions for the state treasury and
31 affected state agencies. The treasury income account is subject in all
32 respects to chapter 43.88 RCW, but no appropriation is required for
33 payments to financial institutions. Payments shall occur prior to
34 distribution of earnings set forth in subsection (4) of this section.

35 (4) Monthly, the state treasurer shall distribute the earnings
36 credited to the treasury income account. The state treasurer shall

1 credit the general fund with all the earnings credited to the treasury
2 income account except:

3 (a) The following accounts and funds shall receive their
4 proportionate share of earnings based upon each account's and fund's
5 average daily balance for the period: The capitol building
6 construction account, the Cedar River channel construction and
7 operation account, the Central Washington University capital projects
8 account, the charitable, educational, penal and reformatory
9 institutions account, the common school construction fund, the county
10 criminal justice assistance account, the county sales and use tax
11 equalization account, the data processing building construction
12 account, the deferred compensation administrative account, the deferred
13 compensation principal account, the department of retirement systems
14 expense account, the drinking water assistance account, the drinking
15 water assistance administrative account, the drinking water assistance
16 repayment account, the Eastern Washington University capital projects
17 account, the education construction fund, the election account, the
18 emergency reserve fund, The Evergreen State College capital projects
19 account, the federal forest revolving account, the health services
20 account, the public health services account, the health system capacity
21 account, the personal health services account, the state higher
22 education construction account, the higher education construction
23 account, the highway infrastructure account, the high-occupancy toll
24 lanes operations account, the industrial insurance premium refund
25 account, the judges' retirement account, the judicial retirement
26 administrative account, the judicial retirement principal account, the
27 local leasehold excise tax account, the local real estate excise tax
28 account, the local sales and use tax account, the medical aid account,
29 the mobile home park relocation fund, the multimodal transportation
30 account, the municipal criminal justice assistance account, the
31 municipal sales and use tax equalization account, the natural resources
32 deposit account, the oyster reserve land account, the perpetual
33 surveillance and maintenance account, the public employees' retirement
34 system plan 1 account, the public employees' retirement system combined
35 plan 2 and plan 3 account, the public facilities construction loan
36 revolving account beginning July 1, 2004, the public health
37 supplemental account, the public works assistance account, the Puyallup
38 tribal settlement account, the regional transportation investment

1 district account, the resource management cost account, the site
2 closure account, the special wildlife account, the state employees'
3 insurance account, the state employees' insurance reserve account, the
4 state investment board expense account, the state investment board
5 commingled trust fund accounts, the supplemental pension account, the
6 Tacoma Narrows toll bridge account, the teachers' retirement system
7 plan 1 account, the teachers' retirement system combined plan 2 and
8 plan 3 account, the tobacco prevention and control account, the tobacco
9 settlement account, the transportation infrastructure account, the
10 tuition recovery trust fund, the University of Washington bond
11 retirement fund, the University of Washington building account, the
12 volunteer fire fighters' and reserve officers' relief and pension
13 principal fund, the volunteer fire fighters' and reserve officers'
14 administrative fund, the Washington fruit express account, the
15 Washington judicial retirement system account, the Washington law
16 enforcement officers' and fire fighters' system plan 1 retirement
17 account, the Washington law enforcement officers' and fire fighters'
18 system plan 2 retirement account, the Washington public safety
19 employees' plan 2 retirement account, the Washington school employees'
20 retirement system combined plan 2 and 3 account, the Washington state
21 health insurance pool account, the Washington state patrol retirement
22 account, the Washington State University building account, the
23 Washington State University bond retirement fund, the water pollution
24 control revolving fund, and the Western Washington University capital
25 projects account. Earnings derived from investing balances of the
26 agricultural permanent fund, the normal school permanent fund, the
27 permanent common school fund, the scientific permanent fund, and the
28 state university permanent fund shall be allocated to their respective
29 beneficiary accounts. All earnings to be distributed under this
30 subsection (4)(a) shall first be reduced by the allocation to the state
31 treasurer's service fund pursuant to RCW 43.08.190.

32 (b) The following accounts and funds shall receive eighty percent
33 of their proportionate share of earnings based upon each account's or
34 fund's average daily balance for the period: The aeronautics account,
35 the aircraft search and rescue account, the county arterial
36 preservation account, the department of licensing services account, the
37 essential rail assistance account, the ferry bond retirement fund, the
38 grade crossing protective fund, the high capacity transportation

1 account, the highway bond retirement fund, the highway safety account,
2 the motor vehicle fund, the motorcycle safety education account, the
3 pilotage account, the public transportation systems account, the Puget
4 Sound capital construction account, the Puget Sound ferry operations
5 account, the recreational vehicle account, the rural arterial trust
6 account, the safety and education account, the special category C
7 account, the state patrol highway account, the transportation 2003
8 account (nickel account), the transportation equipment fund, the
9 transportation fund, the transportation improvement account, the
10 transportation improvement board bond retirement account, and the urban
11 arterial trust account.

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

15 NEW SECTION. **Sec. 9.** Section captions used in this act are not
16 any part of the law.

17 NEW SECTION. **Sec. 10.** (1) Section 5 of this act expires June 30,
18 2005.

19 (2) Section 7 of this act expires July 1, 2006.

20 NEW SECTION. **Sec. 11.** (1) Section 6 of this act is necessary for
21 the immediate preservation of the public peace, health, or safety, or
22 support of the state government and its existing public institutions,
23 and takes effect June 30, 2005.

24 (2) Section 8 of this act takes effect July 1, 2006.

25 NEW SECTION. **Sec. 12.** Section 5 of this act is necessary for the
26 immediate preservation of the public peace, health, or safety, or
27 support of the state government and its existing public institutions,
28 and takes effect immediately.

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