
SUBSTITUTE SENATE BILL 5581

State of Washington

59th Legislature

2005 Regular Session

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

READ FIRST TIME 02/21/05.

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

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

8 NEW SECTION. **Sec. 1.** LEGISLATIVE DECLARATION. The legislature
9 declares it to be a clear public purpose and governmental function to
10 promote life sciences research to foster a preventive and predictive
11 vision of the next generation of health-related innovations, to enhance
12 the competitive position of Washington state in this vital sector of
13 the economy, and to improve the quality and delivery of health care for
14 the people of Washington. It is appropriate and consistent with the
15 intent of the master settlement agreement between the state and tobacco
16 product manufacturers to invest a portion of the revenues derived
17 therefrom by the state in life sciences research, to leverage the
18 revenues with other funds, and to encourage cooperation and innovation
19 among public and private institutions involved in life sciences

1 research. The purpose of this chapter is to establish a life sciences
2 discovery fund authority, to grant that authority the power to contract
3 with the state to receive revenues under the master settlement
4 agreement, and to contract with other entities to receive other funds,
5 and to disburse those funds consistent with the purpose of this
6 chapter. The life sciences discovery fund is intended to promote the
7 best available research in life sciences disciplines through diverse
8 Washington institutions and to foster improved health care outcomes
9 across this state and the world. The research investments of the life
10 sciences discovery fund are intended to further the goals of the "Bio
11 21" report and to support future statewide, comprehensive strategies to
12 lead the nation in life sciences-related research and employment.

13 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

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

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

19 (3) "Contribution agreement" means any agreement authorized under
20 this chapter in which a private entity or a public entity other than
21 the state agrees to provide to the authority contributions for the
22 purpose of promoting life sciences research.

23 (4) "Life sciences research" means advanced and applied research
24 and development intended to improve human health and patient health
25 care outcomes in: (a) Predictive and preventive medicine including
26 innovative areas such as the development of new technologies and
27 computational tools; (b) new approaches to diagnosis and treatment of
28 disease, medical and imaging devices, as well as relevant state of the
29 art technologies and computational tools; and (c) software that can be
30 used in clinical settings. Research efforts can entail laboratory and
31 clinical research, proof of concept development, and appropriate
32 equipment and personnel to support all these areas.

33 (5) "Master settlement agreement" means the national master
34 settlement agreement and related documents entered into on November 23,
35 1998, by the state and the four principal United States tobacco product
36 manufacturers, as amended and supplemented, for the settlement of

1 litigation brought by the state against the tobacco product
2 manufacturers.

3 (6) "State agreement" means the agreement authorized under this
4 chapter in which the state provides to the authority the strategic
5 contribution payments required to be made by tobacco product
6 manufacturers to the state and the state's rights to receive such
7 payments, pursuant to the master settlement agreement, for the purpose
8 of promoting life sciences research.

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

12 NEW SECTION. **Sec. 3.** LIFE SCIENCES DISCOVERY FUND AUTHORITY--
13 ESTABLISHED. (1) The life sciences discovery fund authority is created
14 and constitutes a public instrumentality and agency of the state,
15 separate and distinct from the state, exercising public and essential
16 governmental functions.

17 (2) The powers of the authority are vested in and shall be
18 exercised by a board of trustees consisting of seven members appointed
19 by the governor with the consent of the senate, one of whom shall be
20 appointed by the governor as chair of the authority and who shall serve
21 on the board and as chair of the authority at the pleasure of the
22 governor. The governor shall make the initial appointments no later
23 than thirty days after the effective date of this section. The term of
24 the trustees, other than the chair, is four years from the date of
25 their appointment, except that the terms of three of the initial
26 appointees, as determined by the governor, are for two years from the
27 date of their appointment. A trustee may be removed by the governor
28 for cause under RCW 43.06.070 and 43.06.080. The governor shall fill
29 any vacancy on the board by appointment for the remainder of the
30 unexpired term. The trustees shall be compensated in accordance with
31 RCW 43.03.240 and may be reimbursed, solely from the funds of the
32 authority, for expenses incurred in the discharge of their duties under
33 this chapter, subject to RCW 43.03.050 and 43.03.060.

34 (3) Four members of the board constitute a quorum.

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

1 (5) Meetings of the board shall be held in accordance with the open
2 public meetings act, chapter 42.30 RCW, and at the call of the chair or
3 when a majority of the trustees so requests. Meetings of the board may
4 be held at any location within or out of the state, and trustees may
5 participate in a meeting of the board by means of a conference
6 telephone or similar communication equipment under RCW 23B.08.200.

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

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

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

13 (1) Enter into an agreement with the state for the receipt of
14 strategic contribution payments and of the state's rights to receive
15 the amounts in consideration of the authority's promise to leverage the
16 revenues with amounts received from other public and private sources in
17 accordance with contribution agreements and to hold the funds in trust
18 for the benefit of its funders and its grant recipients for their use
19 pursuant to this chapter to promote life sciences research;

20 (2) Enter into agreements with private entities and public entities
21 other than the state for the receipt of funds in consideration of the
22 authority's promise to leverage the funds with amounts received in
23 accordance with the state agreement, and contributions from other
24 public entities and private entities and to hold the funds in trust for
25 their use pursuant to this chapter to promote life sciences and related
26 research;

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

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

32 (5) Make grants to entities pursuant to contract for the promotion
33 of life sciences research to be conducted in the state. The authority
34 shall solicit requests for funding and evaluate the requests by
35 reference to factors such as: (a) The quality of the proposed
36 research; (b) its potential for leveraging additional funding; (c) its
37 potential to provide health care benefits; (d) its potential to

1 stimulate the health care delivery, biomedical manufacturing, and life
2 sciences related employment in the state; (e) the geographic diversity
3 of the grantees within Washington; and (f) evidence of public and
4 private collaboration;

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

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

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

27 NEW SECTION. **Sec. 6.** AUTHORIZATION OF THE CONTRIBUTION OF RIGHTS
28 IN THE MASTER SETTLEMENT AGREEMENT. (1) The governor is authorized to
29 contribute and assign to the authority all of the state's right to
30 receive the strategic contribution payments. The governor and the
31 authority are authorized to take any action necessary to facilitate and
32 complete the assignment.

33 (2) The contribution made under this section is irrevocable and its
34 assignment enforceable against the state if nonstate contributions in
35 an amount not less than twenty million dollars have been promised to
36 the authority pursuant to one or more contribution agreements and no

1 less than ten million dollars have been received by the authority under
2 contribution agreements. The characterization of such a contribution
3 by the state as an absolute transfer may not be negated or adversely
4 affected by the fact that only a portion of the revenue from the master
5 settlement agreement is being contributed and assigned, or by the
6 state's acquisition or retention of an ownership interest in the
7 portion of the revenue from the master settlement agreement not so
8 assigned.

9 (3) In addition to such other terms, provisions, and conditions as
10 the governor and the authority may determine appropriate for inclusion
11 in the state agreement, the state agreement must contain a: (a)
12 Covenant of the state that the state will not agree to any amendment of
13 the master settlement agreement that materially and adversely affects
14 the authority's ability to receive the strategic contribution payments;
15 (b) requirement that the state enforce, at its own expense, the
16 provisions of the master settlement agreement that require the payment
17 of the strategic contribution payments to the authority.

18 (4) On or after the effective date of the state agreement, the
19 state shall not have any right, title, or interest in the portion of
20 the strategic contribution payments and such payments are the property
21 of the authority and not the state, and shall be owned, received, held,
22 and disbursed by the authority or its assignee, and not the state.

23 (5) The terms of the state agreement must provide that the
24 strategic contribution payments be paid directly to the authority or
25 its assignee. The strategic contribution payments so contributed and
26 assigned may not be received in the treasury of the state and may not
27 be or deemed to be general state revenues as that term is used in
28 Article VIII, section 1 of the state Constitution.

29 NEW SECTION. **Sec. 7.** LIMITATION OF LIABILITY. Members of the
30 board and persons acting on behalf of the authority, while acting
31 within the scope of their employment or agency, are not subject to
32 personal liability resulting from carrying out the powers and duties
33 conferred on them under this chapter. Neither the state nor the
34 authority is liable for any loss, damage, harm, or other consequence
35 resulting directly or indirectly from grants made by the authority or
36 by any life sciences research funded by such grants.

1 NEW SECTION. **Sec. 8.** DISSOLUTION OF THE AUTHORITY. The authority
2 may petition the legislature to be dissolved upon a showing that it has
3 no reason to exist and that any assets it retains must be distributed
4 to one or more similar entities approved by the legislature. The
5 legislature reserves the right to dissolve the authority after its
6 contractual obligations to its funders and grant recipients have
7 expired.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW
9 to read as follows:

10 BUSINESS AND OCCUPATION TAX EXEMPTION. This chapter does not apply
11 to income received by the life sciences discovery fund authority under
12 chapter 43.-- RCW (sections 1 through 8 of this act).

13 **Sec. 10.** RCW 43.79.480 and 2002 c 365 s 15 are each amended to
14 read as follows:

15 (1) Moneys received by the state of Washington in accordance with
16 the settlement of the state's legal action against tobacco product
17 manufacturers, exclusive of costs and attorneys' fees, shall be
18 deposited in the tobacco settlement account created in this section
19 except as these moneys are sold or assigned under chapter 43.340 RCW or
20 are contributed or assigned under chapter 43.-- RCW (sections 1 through
21 8 of this act).

22 (2) The tobacco settlement account is created in the state
23 treasury. Moneys in the tobacco settlement account may only be
24 transferred to the health services account for the purposes set forth
25 in RCW 43.72.900, and to the tobacco prevention and control account for
26 purposes set forth in this section.

27 (3) The tobacco prevention and control account is created in the
28 state treasury. The source of revenue for this account is moneys
29 transferred to the account from the tobacco settlement account,
30 investment earnings, donations to the account, and other revenues as
31 directed by law. Expenditures from the account are subject to
32 appropriation.

33 **Sec. 11.** RCW 42.30.110 and 2003 c 277 s 1 are each amended to read
34 as follows:

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

4 (a) To consider matters affecting national security;

5 (b) To consider the selection of a site or the acquisition of real
6 estate by lease or purchase when public knowledge regarding such
7 consideration would cause a likelihood of increased price;

8 (c) To consider the minimum price at which real estate will be
9 offered for sale or lease when public knowledge regarding such
10 consideration would cause a likelihood of decreased price. However,
11 final action selling or leasing public property shall be taken in a
12 meeting open to the public;

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

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

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

23 (g) To evaluate the qualifications of an applicant for public
24 employment or to review the performance of a public employee. However,
25 subject to RCW 42.30.140(4), discussion by a governing body of
26 salaries, wages, and other conditions of employment to be generally
27 applied within the agency shall occur in a meeting open to the public,
28 and when a governing body elects to take final action hiring, setting
29 the salary of an individual employee or class of employees, or
30 discharging or disciplining an employee, that action shall be taken in
31 a meeting open to the public;

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

36 (i) To discuss with legal counsel representing the agency matters
37 relating to agency enforcement actions, or to discuss with legal
38 counsel representing the agency litigation or potential litigation to

1 which the agency, the governing body, or a member acting in an official
2 capacity is, or is likely to become, a party, when public knowledge
3 regarding the discussion is likely to result in an adverse legal or
4 financial consequence to the agency.

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

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

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

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

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

26 (k) To consider, in the case of the state investment board,
27 financial and commercial information when the information relates to
28 the investment of public trust or retirement funds and when public
29 knowledge regarding the discussion would result in loss to such funds
30 or in private loss to the providers of this information;

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

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

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

6 **Sec. 12.** RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277
7 s 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
19 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
20 taxpayer's right to privacy or result in unfair competitive
21 disadvantage to the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

37 (o) Financial and commercial information and records supplied by

1 private persons pertaining to export services provided pursuant to
2 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
3 export projects pursuant to RCW 43.23.035.

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

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

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

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

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

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

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

34 (w)(i) The federal social security number of individuals governed
35 under chapter 18.130 RCW maintained in the files of the department of
36 health, except this exemption does not apply to requests made directly
37 to the department from federal, state, and local agencies of
38 government, and national and state licensing, credentialing,

1 investigatory, disciplinary, and examination organizations; (ii) the
2 current residential address and current residential telephone number of
3 a health care provider governed under chapter 18.130 RCW maintained in
4 the files of the department, if the provider requests that this
5 information be withheld from public inspection and copying, and
6 provides to the department an accurate alternate or business address
7 and business telephone number. On or after January 1, 1995, the
8 current residential address and residential telephone number of a
9 health care provider governed under RCW 18.130.040 maintained in the
10 files of the department shall automatically be withheld from public
11 inspection and copying unless the provider specifically requests the
12 information be released, and except as provided for under RCW
13 42.17.260(9).

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

16 (y) Information obtained by the board of pharmacy or the department
17 of health and its representatives as provided in RCW 69.41.044,
18 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

11 (hh) Information and documents created specifically for, and
12 collected and maintained by a quality improvement committee pursuant to
13 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
14 4.24.250, regardless of which agency is in possession of the
15 information and documents.

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

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

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

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

31 (mm) The personally identifying information of current or former
32 participants or applicants in a paratransit or other transit service
33 operated for the benefit of persons with disabilities or elderly
34 persons.

35 (nn) The personally identifying information of persons who acquire
36 and use transit passes and other fare payment media including, but not
37 limited to, stored value smart cards and magnetic strip cards, except
38 that an agency may disclose this information to a person, employer,

1 educational institution, or other entity that is responsible, in whole
2 or in part, for payment of the cost of acquiring or using a transit
3 pass or other fare payment media, or to the news media when reporting
4 on public transportation or public safety. This information may also
5 be disclosed at the agency's discretion to governmental agencies or
6 groups concerned with public transportation or public safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (ii) The department of social and health services, child support
23 division, and to the department of licensing in order to implement RCW
24 77.32.014 and 46.20.291; and

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

27 (aaa)(i) 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 not been commingled with other recorded documents.
30 These records will be available only to the veteran, the veteran's next
31 of kin, a deceased veteran's properly appointed personal representative
32 or executor, a person holding that veteran's general power of attorney,
33 or to anyone else designated in writing by that veteran to receive the
34 records.

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

1 papers" with the county auditor. If such a request has been recorded,
2 these records may be released only to the veteran filing the papers,
3 the veteran's next of kin, a deceased veteran's properly appointed
4 personal representative or executor, a person holding the veteran's
5 general power of attorney, or anyone else designated in writing by the
6 veteran to receive the records.

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

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

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

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

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

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

1 to a technical review committee created to facilitate the development,
2 acquisition, or implementation of state purchased health care under
3 chapter 41.05 RCW.

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

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

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

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

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

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

1 **Sec. 13.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
2 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

34 (g) Except as provided by chapter 8.26 RCW, the contents of real
35 estate appraisals, made for or by any agency relative to the
36 acquisition or sale of property, until the project or prospective sale
37 is abandoned or until such time as all of the property has been

1 acquired or the property to which the sale appraisal relates is sold,
2 but in no event shall disclosure be denied for more than three years
3 after the appraisal.

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

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

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

16 (k) Records, maps, or other information identifying the location of
17 archaeological sites in order to avoid the looting or depredation of
18 such sites.

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

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

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

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

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

37 (q) Records filed with the utilities and transportation commission

1 or attorney general under RCW 80.04.095 that a court has determined are
2 confidential under RCW 80.04.095.

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

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

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

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

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

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

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

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

10 (y) Information obtained by the board of pharmacy or the department
11 of health and its representatives as provided in RCW 69.41.044,
12 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (vv) Individually identifiable information received by the work
5 force training and education coordinating board for research or
6 evaluation purposes.

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

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

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

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

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

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

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

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

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

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

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

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

15 (i) Government agencies concerned with the management of fish and
16 wildlife resources;

17 (ii) The department of social and health services, child support
18 division, and to the department of licensing in order to implement RCW
19 77.32.014 and 46.20.291; and

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

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

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

1 general power of attorney, or anyone else designated in writing by the
2 veteran to receive the records.

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

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

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

20 (ccc) Information compiled by school districts or schools in the
21 development of their comprehensive safe school plans pursuant to RCW
22 28A.320.125, to the extent that they identify specific vulnerabilities
23 of school districts and each individual school.

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

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

37 (fff) Proprietary data, trade secrets, or other information that
38 relates to: (i) A vendor's unique methods of conducting business; (ii)

1 data unique to the product or services of the vendor; or (iii)
2 determining prices or rates to be charged for services, submitted by
3 any vendor to the department of social and health services for purposes
4 of the development, acquisition, or implementation of state purchased
5 health care as defined in RCW 41.05.011.

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

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

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

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

30 **Sec. 14.** RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are
31 each reenacted and amended to read as follows:

32 For the purposes of RCW 42.17.240, the term "executive state
33 officer" includes:

34 (1) The chief administrative law judge, the director of
35 agriculture, the administrator of the Washington basic health plan, the
36 director of the department of services for the blind, the director of
37 the state system of community and technical colleges, the director of

1 community, trade, and economic development, the secretary of
2 corrections, the director of ecology, the commissioner of employment
3 security, the ((~~chairman~~)) chair of the energy facility site evaluation
4 council, the secretary of the state finance committee, the director of
5 financial management, the director of fish and wildlife, the executive
6 secretary of the forest practices appeals board, the director of the
7 gambling commission, the director of general administration, the
8 secretary of health, the administrator of the Washington state health
9 care authority, the executive secretary of the health care facilities
10 authority, the executive secretary of the higher education facilities
11 authority, the executive secretary of the horse racing commission, the
12 executive secretary of the human rights commission, the executive
13 secretary of the indeterminate sentence review board, the director of
14 the department of information services, the director of the interagency
15 committee for outdoor recreation, the executive director of the state
16 investment board, the director of labor and industries, the director of
17 licensing, the director of the lottery commission, the director of the
18 office of minority and women's business enterprises, the director of
19 parks and recreation, the director of personnel, the executive director
20 of the public disclosure commission, the director of retirement
21 systems, the director of revenue, the secretary of social and health
22 services, the chief of the Washington state patrol, the executive
23 secretary of the board of tax appeals, the secretary of transportation,
24 the secretary of the utilities and transportation commission, the
25 director of veterans affairs, the president of each of the regional and
26 state universities and the president of The Evergreen State College,
27 each district and each campus president of each state community
28 college;

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

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

31 (4) Central Washington University board of trustees, board of
32 trustees of each community college, each member of the state board for
33 community and technical colleges, state convention and trade center
34 board of directors, committee for deferred compensation, Eastern
35 Washington University board of trustees, Washington economic
36 development finance authority, The Evergreen State College board of
37 trustees, executive ethics board, forest practices appeals board,
38 forest practices board, gambling commission, life sciences discovery

1 fund authority board of trustees, Washington health care facilities
2 authority, each member of the Washington health services commission,
3 higher education coordinating board, higher education facilities
4 authority, horse racing commission, state housing finance commission,
5 human rights commission, indeterminate sentence review board, board of
6 industrial insurance appeals, information services board, interagency
7 committee for outdoor recreation, state investment board, commission on
8 judicial conduct, legislative ethics board, liquor control board,
9 lottery commission, marine oversight board, Pacific Northwest electric
10 power and conservation planning council, parks and recreation
11 commission, personnel appeals board, board of pilotage commissioners,
12 pollution control hearings board, public disclosure commission, public
13 pension commission, shorelines hearing board, public employees'
14 benefits board, salmon recovery funding board, board of tax appeals,
15 transportation commission, University of Washington board of regents,
16 utilities and transportation commission, Washington state maritime
17 commission, Washington personnel resources board, Washington public
18 power supply system executive board, Washington State University board
19 of regents, Western Washington University board of trustees, and fish
20 and wildlife commission.

21 NEW SECTION. Sec. 15. CAPTIONS. Captions used in this act are
22 not any part of the law.

23 NEW SECTION. Sec. 16. LIBERAL CONSTRUCTION. This act, being
24 necessary for the welfare of the state and its inhabitants, shall be
25 liberally construed.

26 NEW SECTION. Sec. 17. CODIFICATION. Sections 1 through 8 of this
27 act constitute a new chapter in Title 43 RCW.

28 NEW SECTION. Sec. 18. SEVERABILITY. If any provision of this act
29 or its application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. Sec. 19. EXPIRATION DATE. Section 12 of this act
33 expires June 30, 2005.

1 NEW SECTION. **Sec. 20.** EFFECTIVE DATE. This act is necessary for
2 the immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect immediately, except for section 13 of this act, which
5 takes effect June 30, 2005.

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