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**SUBSTITUTE SENATE BILL 5526**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Higher Education & Workforce Development (originally sponsored by Senators Fairley, Roach, Zarelli, Murray, Kilmer, Shin, and Kohl-Welles; by request of University of Washington)

READ FIRST TIME 02/19/09.

1       AN ACT Relating to private financial and commercial investment  
2 information received by the University of Washington for purposes of  
3 the consolidated endowment fund; amending RCW 42.56.270; adding a new  
4 section to chapter 28B.20 RCW; and creating a new section.

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

6       NEW SECTION.   **Sec. 1.**   The intent of this act is to clarify  
7 provisions governing disclosure of information related to University of  
8 Washington endowment investments, and thereby improve the university's  
9 ability to maximize the performance of its endowment portfolio. For  
10 endowment investments in privately managed funds, this act requires  
11 disclosure of the names of the funds, the amounts invested in the  
12 funds, and quarterly performance results for the endowment's portfolio  
13 of investments in such funds. These disclosures are intended to  
14 provide the public with information about the overall performance of  
15 the privately managed endowment investments, while prohibiting  
16 disclosure of proprietary information that could result in loss to the  
17 endowment or to persons who provide the proprietary information.

1        NEW SECTION.    **Sec. 2.** A new section is added to chapter 28B.20 RCW  
2 to read as follows:

3        The University of Washington must disclose: (1) The names and  
4 commitment amounts of the private funds in which it is invested; and  
5 (2) the aggregate quarterly performance results for its portfolio of  
6 investments in such funds. The University of Washington shall have  
7 formal policies addressing conflicts of interest in regard to the  
8 private funds in which the endowment is invested, in compliance with  
9 RCW 42.52.190, and shall post these policies on their public web site.

10        **Sec. 3.** RCW 42.56.270 and 2008 c 306 s 1 are each amended to read  
11 as follows:

12        The following financial, commercial, and proprietary information is  
13 exempt from disclosure under this chapter:

14        (1) Valuable formulae, designs, drawings, computer source code or  
15 object code, and research data obtained by any agency within five years  
16 of the request for disclosure when disclosure would produce private  
17 gain and public loss;

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

23        (3) Financial and commercial information and records supplied by  
24 private persons pertaining to export services provided under chapters  
25 43.163 and 53.31 RCW, and by persons pertaining to export projects  
26 under RCW 43.23.035;

27        (4) Financial and commercial information and records supplied by  
28 businesses or individuals during application for loans or program  
29 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
30 43.168 RCW, or during application for economic development loans or  
31 program services provided by any local agency;

32        (5) Financial information, business plans, examination reports, and  
33 any information produced or obtained in evaluating or examining a  
34 business and industrial development corporation organized or seeking  
35 certification under chapter 31.24 RCW;

36        (6) Financial and commercial information supplied to the state  
37 investment board by any person when the information relates to the

1 investment of public trust or retirement funds and when disclosure  
2 would result in loss to such funds or in private loss to the providers  
3 of this information;

4 (7) Financial and valuable trade information under RCW 51.36.120;

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

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

12 (10)(a) Financial information, including but not limited to account  
13 numbers and values, and other identification numbers supplied by or on  
14 behalf of a person, firm, corporation, limited liability company,  
15 partnership, or other entity related to an application for a horse  
16 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
17 license, gambling license, or lottery retail license;

18 (b) Internal control documents, independent auditors' reports and  
19 financial statements, and supporting documents: (i) Of house-banked  
20 social card game licensees required by the gambling commission pursuant  
21 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes  
22 with an approved tribal/state compact for class III gaming;

23 (11) Proprietary data, trade secrets, or other information that  
24 relates to: (a) A vendor's unique methods of conducting business; (b)  
25 data unique to the product or services of the vendor; or (c)  
26 determining prices or rates to be charged for services, submitted by  
27 any vendor to the department of social and health services for purposes  
28 of the development, acquisition, or implementation of state purchased  
29 health care as defined in RCW 41.05.011;

30 (12)(a) When supplied to and in the records of the department of  
31 community, trade, and economic development:

32 (i) Financial and proprietary information collected from any person  
33 and provided to the department of community, trade, and economic  
34 development pursuant to RCW 43.330.050(8); and

35 (ii) Financial or proprietary information collected from any person  
36 and provided to the department of community, trade, and economic  
37 development or the office of the governor in connection with the  
38 siting, recruitment, expansion, retention, or relocation of that

1 person's business and until a siting decision is made, identifying  
2 information of any person supplying information under this subsection  
3 and the locations being considered for siting, relocation, or expansion  
4 of a business;

5 (b) When developed by the department of community, trade, and  
6 economic development based on information as described in (a)(i) of  
7 this subsection, any work product is not exempt from disclosure;

8 (c) For the purposes of this subsection, "siting decision" means  
9 the decision to acquire or not to acquire a site;

10 (d) If there is no written contact for a period of sixty days to  
11 the department of community, trade, and economic development from a  
12 person connected with siting, recruitment, expansion, retention, or  
13 relocation of that person's business, information described in (a)(ii)  
14 of this subsection will be available to the public under this chapter;

15 (13) Financial and proprietary information submitted to or obtained  
16 by the department of ecology or the authority created under chapter  
17 70.95N RCW to implement chapter 70.95N RCW;

18 (14) Financial, commercial, operations, and technical and research  
19 information and data submitted to or obtained by the life sciences  
20 discovery fund authority in applications for, or delivery of, grants  
21 under chapter 43.350 RCW, to the extent that such information, if  
22 revealed, would reasonably be expected to result in private loss to the  
23 providers of this information;

24 (15) Financial and commercial information provided as evidence to  
25 the department of licensing as required by RCW 19.112.110 or  
26 19.112.120, except information disclosed in aggregate form that does  
27 not permit the identification of information related to individual fuel  
28 licensees;

29 (16) Any production records, mineral assessments, and trade secrets  
30 submitted by a permit holder, mine operator, or landowner to the  
31 department of natural resources under RCW 78.44.085;

32 (17)(a) Farm plans developed by conservation districts, unless  
33 permission to release the farm plan is granted by the landowner or  
34 operator who requested the plan, or the farm plan is used for the  
35 application or issuance of a permit;

36 (b) Farm plans developed under chapter 90.48 RCW and not under the  
37 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to  
38 RCW 42.56.610 and 90.64.190;

1 (18) Financial, commercial, operations, and technical and research  
2 information and data submitted to or obtained by a health sciences and  
3 services authority in applications for, or delivery of, grants under  
4 RCW 35.104.010 through 35.104.060, to the extent that such information,  
5 if revealed, would reasonably be expected to result in private loss to  
6 providers of this information; (~~and~~)

7 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328  
8 that can be identified to a particular business; and

9 (20) Financial and commercial information submitted to or obtained  
10 by the University of Washington, other than information the university  
11 is required to disclose under section 2 of this act, when the  
12 information relates to investments in private funds, to the extent that  
13 such information, if revealed, would reasonably be expected to result  
14 in loss to the University of Washington consolidated endowment fund or  
15 to result in private loss to the providers of this information.

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