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SENATE BILL 6236

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State of Washington

56th Legislature

2000 Regular Session

By Senator Fairley; by request of Employment Security Department

Read first time 01/11/2000. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to the transfer of data for operational,  
2 evaluation, and research purposes; reenacting and amending RCW  
3 50.13.060 and 42.17.310; creating new sections; and prescribing  
4 penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that individuals in  
7 need of employment and related services would be better served by  
8 integrating employment and training services to form a comprehensive  
9 network of state and local programs, called a one-stop career  
10 development system. Successful integration of employment and training  
11 services demands prompt and efficient exchange of information among  
12 service providers. The legislature further finds that efficient  
13 operation of state programs and their evaluation demand at times  
14 information held by the employment security department. Current  
15 restrictions on information exchange hamper this coordination,  
16 resulting in increased administrative costs, reduced levels of service,  
17 and fewer positive outcomes than could otherwise be achieved.

1       **Sec. 2.** RCW 50.13.060 and 1997 c 409 s 605 and 1997 c 58 s 1004  
2 are each reenacted and amended to read as follows:

3       (1) Governmental agencies, including law enforcement agencies,  
4 prosecuting agencies, and the executive branch, whether state, local,  
5 or federal shall have access to information or records deemed private  
6 and confidential under this chapter if the information or records are  
7 needed by the agency for official purposes and:

8       (a) The agency submits an application in writing to the employment  
9 security department for the records or information containing a  
10 statement of the official purposes for which the information or records  
11 are needed and specific identification of the records or information  
12 sought from the department; and

13       (b) The director, commissioner, chief executive, or other official  
14 of the agency has verified the need for the specific information in  
15 writing either on the application or on a separate document; and

16       (c) The agency requesting access has served a copy of the  
17 application for records or information on the individual or employing  
18 unit whose records or information are sought and has provided the  
19 department with proof of service. Service shall be made in a manner  
20 which conforms to the civil rules for superior court. The requesting  
21 agency shall include with the copy of the application a statement to  
22 the effect that the individual or employing unit may contact the public  
23 records officer of the employment security department to state any  
24 objections to the release of the records or information. The  
25 employment security department shall not act upon the application of  
26 the requesting agency until at least five days after service on the  
27 concerned individual or employing unit. The employment security  
28 department shall consider any objections raised by the concerned  
29 individual or employing unit in deciding whether the requesting agency  
30 needs the information or records for official purposes.

31       (2) The requirements of subsections (1) and (9) of this section  
32 shall not apply to the state legislative branch. The state legislature  
33 shall have access to information or records deemed private and  
34 confidential under this chapter, if the legislature or a legislative  
35 committee finds that the information or records are necessary and for  
36 official purposes. If the employment security department does not make  
37 information or records available as provided in this subsection, the  
38 legislature may exercise its authority granted by chapter 44.16 RCW.

1 (3) In cases of emergency the governmental agency requesting access  
2 shall not be required to formally comply with the provisions of  
3 subsection (1) of this section at the time of the request if the  
4 procedures required by subsection (1) of this section are complied with  
5 by the requesting agency following the receipt of any records or  
6 information deemed private and confidential under this chapter. An  
7 emergency is defined as a situation in which irreparable harm or damage  
8 could occur if records or information are not released immediately.

9 (4) The requirements of subsection (1)(c) of this section shall not  
10 apply to governmental agencies where the procedures would frustrate the  
11 investigation of possible violations of criminal laws or to the release  
12 of employing unit names, addresses, number of employees, and aggregate  
13 employer wage data for the purpose of state governmental agencies  
14 preparing small business economic impact statements under chapter 19.85  
15 RCW or preparing cost-benefit analyses under RCW 34.05.328(1)(c).  
16 Information provided by the department and held to be private and  
17 confidential under state or federal laws must not be misused or  
18 released to unauthorized parties. A person who misuses such  
19 information or releases such information to unauthorized parties is  
20 subject to the sanctions in RCW 50.13.080.

21 (5) Governmental agencies shall have access to certain records or  
22 information, limited to such items as names, addresses, social security  
23 numbers, and general information about benefit entitlement or employer  
24 information possessed by the department, for comparison purposes with  
25 records or information possessed by the requesting agency to detect  
26 improper or fraudulent claims, or to determine potential tax liability  
27 or employer compliance with registration and licensing requirements.  
28 In those cases the governmental agency shall not be required to comply  
29 with subsection (1)(c) of this section, but the requirements of the  
30 remainder of subsection (1) of this section must be satisfied.

31 (6) Governmental agencies may have access to certain records and  
32 information, limited to employer information possessed by the  
33 department for purposes authorized in chapter 50.38 RCW. Access to  
34 these records and information is limited to only those individuals  
35 conducting authorized statistical analysis, research, and evaluation  
36 studies. Only in cases consistent with the purposes of chapter 50.38  
37 RCW are government agencies not required to comply with subsection  
38 (1)(c) of this section, but the requirements of the remainder of  
39 subsection (1) of this section must be satisfied. Information provided

1 by the department and held to be private and confidential under state  
2 or federal laws shall not be misused or released to unauthorized  
3 parties subject to the sanctions in RCW 50.13.080.

4 (7) Disclosure to governmental agencies of information or records  
5 obtained by the employment security department from the federal  
6 government shall be governed by any applicable federal law or any  
7 agreement between the federal government and the employment security  
8 department where so required by federal law. When federal law does not  
9 apply to the records or information state law shall control.

10 (8) The department may provide information for purposes of  
11 statistical analysis and evaluation of the WorkFirst program or any  
12 successor state welfare program((7)) to the department of social and  
13 health services, the office of financial management, and other  
14 governmental entities with oversight or evaluation responsibilities for  
15 the program ((shall have access to employer wage information on clients  
16 in the program whose names and social security numbers are provided to  
17 the department)) in accordance with RCW 43.20A.080. The confidential  
18 information provided by the department shall remain the property of the  
19 department and may be used by the authorized requesting agencies only  
20 for statistical analysis, research, and evaluation purposes as provided  
21 in RCW 74.08A.410 and 74.08A.420. The department of social and health  
22 services ((is)), the office of financial management, or other  
23 governmental entities with oversight or evaluation responsibilities for  
24 the program are not required to comply with subsection (1)(c) of this  
25 section, but the requirements of the remainder of subsection (1) of  
26 this section and applicable federal laws and regulations must be  
27 satisfied. The confidential information used for evaluation and  
28 analysis of welfare reform supplied to the authorized requesting  
29 entities with regard to the WorkFirst program or any successor state  
30 welfare program are exempt from public inspection and copying under RCW  
31 42.17.310.

32 (9) The disclosure of any records or information by a governmental  
33 agency which has obtained the records or information under this section  
34 is prohibited unless the disclosure is directly connected to the  
35 official purpose for which the records or information were obtained.

36 (10) In conducting periodic salary or fringe benefit studies  
37 pursuant to law, the department of personnel shall have access to  
38 records of the employment security department as may be required for

1 such studies. For such purposes, the requirements of subsection (1)(c)  
2 of this section need not apply.

3 (11) To promote the reemployment of job seekers, the commissioner  
4 may enter into data-sharing contracts with partners of the one-stop  
5 career development system. The contracts shall provide for the  
6 transfer of data only to the extent that the transfer is necessary for  
7 the efficient provisions of work force programs, including but not  
8 limited to public labor exchange, unemployment insurance, worker  
9 training and retraining, vocational rehabilitation, vocational  
10 education, adult education, transition from public assistance, and  
11 support services. The transfer of information under contracts with  
12 one-stop partners is exempt from subsection (1)(c) of this section.

13 (12) To facilitate improved operation and evaluation of state  
14 programs, the commissioner may enter into data-sharing contracts with  
15 other state agencies only to the extent that such transfer is necessary  
16 for the efficient operation or evaluation of outcomes for those  
17 programs. The transfer of information by contract under this  
18 subsection is exempt from subsection (1)(c) of this section.

19 (13) The misuse or unauthorized release of records or information  
20 by any person or organization to which access is permitted by this  
21 chapter subjects the person or organization to a civil penalty of five  
22 thousand dollars and other applicable sanctions under state and federal  
23 law. Suit to enforce this section shall be brought by the attorney  
24 general and the amount of any penalties collected shall be paid into  
25 the employment security department administrative contingency fund.  
26 The attorney general may recover reasonable attorneys' fees for any  
27 action brought to enforce this section.

28 **Sec. 3.** RCW 42.17.310 and 1999 c 326 s 3, 1999 c 290 s 1, and 1999  
29 c 215 s 1 are each reenacted and amended to read as follows:

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

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

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

37 (c) Information required of any taxpayer in connection with the  
38 assessment or collection of any tax if the disclosure of the

1 information to other persons would (i) be prohibited to such persons by  
2 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
3 taxpayer's right to privacy or result in unfair competitive  
4 disadvantage to the taxpayer.

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

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

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

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

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

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

38 (j) Records which are relevant to a controversy to which an agency  
39 is a party but which records would not be available to another party

1 under the rules of pretrial discovery for causes pending in the  
2 superior courts.

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

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

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

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

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

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

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

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

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

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

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

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

12 (w)(i) The federal social security number of individuals governed  
13 under chapter 18.130 RCW maintained in the files of the department of  
14 health, except this exemption does not apply to requests made directly  
15 to the department from federal, state, and local agencies of  
16 government, and national and state licensing, credentialing,  
17 investigatory, disciplinary, and examination organizations; (ii) the  
18 current residential address and current residential telephone number of  
19 a health care provider governed under chapter 18.130 RCW maintained in  
20 the files of the department, if the provider requests that this  
21 information be withheld from public inspection and copying, and  
22 provides to the department an accurate alternate or business address  
23 and business telephone number. On or after January 1, 1995, the  
24 current residential address and residential telephone number of a  
25 health care provider governed under RCW (~~18.130.140~~) 18.130.040  
26 maintained in the files of the department shall automatically be  
27 withheld from public inspection and copying unless the provider  
28 specifically requests the information be released, and except as  
29 provided for under RCW 42.17.260(9).

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

32 (y) Information obtained by the board of pharmacy or the department  
33 of health and its representatives as provided in RCW 69.41.044,  
34 69.41.280, and 18.64.420.

35 (z) Financial information, business plans, examination reports, and  
36 any information produced or obtained in evaluating or examining a  
37 business and industrial development corporation organized or seeking  
38 certification under chapter 31.24 RCW.

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

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

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

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

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

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

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

26 (hh) Information and documents created specifically for, and  
27 collected and maintained by a quality improvement committee pursuant to  
28 RCW 43.70.510, regardless of which agency is in possession of the  
29 information and documents.

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

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

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

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

7 (mm) The personally identifying information of current or former  
8 participants or applicants in a paratransit or other transit service  
9 operated for the benefit of persons with disabilities or elderly  
10 persons.

11 (nn) The personally identifying information of persons who acquire  
12 and use transit passes and other fare payment media including, but not  
13 limited to, stored value smart cards and magnetic strip cards, except  
14 that an agency may disclose this information to a person, employer,  
15 educational institution, or other entity that is responsible, in whole  
16 or in part, for payment of the cost of acquiring or using a transit  
17 pass or other fare payment media, or to the news media when reporting  
18 on public transportation or public safety. This information may also  
19 be disclosed at the agency's discretion to governmental agencies or  
20 groups concerned with public transportation or public safety.

21 (oo) Proprietary financial and commercial information that the  
22 submitting entity, with review by the department of health,  
23 specifically identifies at the time it is submitted and that is  
24 provided to or obtained by the department of health in connection with  
25 an application for, or the supervision of, an antitrust exemption  
26 sought by the submitting entity under RCW 43.72.310. If a request for  
27 such information is received, the submitting entity must be notified of  
28 the request. Within ten business days of receipt of the notice, the  
29 submitting entity shall provide a written statement of the continuing  
30 need for confidentiality, which shall be provided to the requester.  
31 Upon receipt of such notice, the department of health shall continue to  
32 treat information designated under this section as exempt from  
33 disclosure. If the requester initiates an action to compel disclosure  
34 under this chapter, the submitting entity must be joined as a party to  
35 demonstrate the continuing need for confidentiality.

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

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

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

11 (ss) Records maintained by the employment security department and  
12 subject to chapter 50.13 RCW if provided to another individual or  
13 organization for operational, research, or evaluation purposes.

14 (tt) Individually identifiable information received by the work  
15 force training and education coordinating board for research or  
16 evaluation purposes.

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

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

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

35 NEW SECTION. Sec. 4. If any part of this act is found to be in  
36 conflict with federal requirements that are a prescribed condition to  
37 the allocation of federal funds to the state or the eligibility of  
38 employers in this state for federal unemployment tax credits, the

1 conflicting part of this act is inoperative solely to the extent of the  
2 conflict, and the finding or determination does not affect the  
3 operation of the remainder of this act. Rules adopted under this act  
4 must meet federal requirements that are a necessary condition to the  
5 receipt of federal funds by the state or the granting of federal  
6 unemployment tax credits to employers in this state.

7 NEW SECTION. **Sec. 5.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

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