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**SUBSTITUTE SENATE BILL 5581**

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**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.

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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.

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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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