

E2SSB 5581 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 04/16/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** LEGISLATIVE DECLARATION. The legislature
4 declares that promoting the health of state residents is a fundamental
5 purpose of state government. The legislature declares it to be a clear
6 public purpose and governmental function to promote life sciences
7 research to foster a preventive and predictive vision of the next
8 generation of health-related innovations, to enhance the competitive
9 position of Washington state in this vital sector of the economy, and
10 to improve the quality and delivery of health care for the people of
11 Washington. The legislature finds that public support for and
12 promotion of life sciences research will benefit the state and its
13 residents through improved health status and health outcomes, economic
14 development, and contributions to scientific knowledge, and such
15 research will lead to breakthroughs and improvements that might not
16 otherwise be discovered due to lack of existing market incentives,
17 especially in the area of regenerative medicine. The legislature finds
18 that public support for and promotion of life sciences research has the
19 potential to provide cures or new treatments for many debilitating
20 diseases that cost the state millions of dollars each year. It is
21 appropriate and consistent with the intent of the master settlement
22 agreement between the state and tobacco product manufacturers to invest
23 a portion of the revenues derived therefrom by the state in life
24 sciences research, to leverage the revenues with other funds, and to
25 encourage cooperation and innovation among public and private
26 institutions involved in life sciences research. The purpose of this
27 chapter is to establish a life sciences discovery fund authority, to
28 grant that authority the power to contract with the state to receive
29 revenues under the master settlement agreement, and to contract with
30 other entities to receive other funds, and to disburse those funds

1 consistent with the purpose of this chapter. The life sciences
2 discovery fund is intended to promote the best available research in
3 life sciences disciplines through diverse Washington institutions and
4 to build upon existing strengths in the area of biosciences and
5 biomanufacturing in order to spread the economic benefits across the
6 state. The life sciences discovery fund is also intended to foster
7 improved health care outcomes and improved agricultural production
8 research across this state and the world. The research investments of
9 the life sciences discovery fund are intended to further the goals of
10 the "Bio 21" report and to support future statewide, comprehensive
11 strategies to lead the nation in life sciences-related research and
12 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, including scientific
25 study of the developing brain and human learning and development, and
26 other areas of scientific research and development vital to the state's
27 economy.

28 (5) "Master settlement agreement" means the national master
29 settlement agreement and related documents entered into on November 23,
30 1998, by the state and the four principal United States tobacco product
31 manufacturers, as amended and supplemented, for the settlement of
32 litigation brought by the state against the tobacco product
33 manufacturers.

34 (6) "Public employee" means any person employed by the state of
35 Washington or any agency or political subdivision thereof.

36 (7) "Public facilities" means any public institution, public

1 facility, public equipment, or any physical asset owned, leased, or
2 controlled by the state of Washington or any agency or political
3 subdivision thereof.

4 (8) "Public funds" means any funds received or controlled by the
5 state of Washington or any agency or political subdivision thereof,
6 including, but not limited to, funds derived from federal, state, or
7 local taxes, gifts or grants from any source, public or private,
8 federal grants or payments, or intergovernmental transfers.

9 (9) "State agreement" means the agreement authorized under this
10 chapter in which the state provides to the authority the strategic
11 contribution payments required to be made by tobacco product
12 manufacturers to the state and the state's rights to receive such
13 payments, pursuant to the master settlement agreement, for the purpose
14 of promoting life sciences research.

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

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

23 (2) The powers of the authority are vested in and shall be
24 exercised by a board of trustees consisting of: Two members of either
25 the house appropriations committee or the house committee dealing with
26 technology issues, one from each caucus, to be appointed by the speaker
27 of the house of representatives; two members of either the senate
28 committee on ways and means or the senate committee dealing with
29 technology issues, one from each caucus, to be appointed by the
30 president of the senate; and seven members appointed by the governor
31 with the consent of the senate, one of whom shall be appointed by the
32 governor as chair of the authority and who shall serve on the board and
33 as chair of the authority at the pleasure of the governor. The
34 respective officials shall make the initial appointments no later than
35 thirty days after the effective date of this section. The term of the
36 trustees, other than the chair, is four years from the date of their
37 appointment, except that the terms of three of the initial

1 gubernatorial appointees, as determined by the governor, are for two
2 years from the date of their appointment. A trustee appointed by the
3 governor may be removed by the governor for cause under RCW 43.06.070
4 and 43.06.080. The appropriate official shall fill any vacancy on the
5 board by appointment for the remainder of the unexpired term. The
6 trustees appointed by the governor shall be compensated in accordance
7 with RCW 43.03.240 and may be reimbursed, solely from the funds of the
8 authority, for expenses incurred in the discharge of their duties under
9 this chapter, subject to RCW 43.03.050 and 43.03.060. The trustees who
10 are legislators shall be reimbursed for travel expenses in accordance
11 with RCW 44.04.120.

12 (3) Seven members of the board constitute a quorum.

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

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

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

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

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

28 (1) Use public moneys in the life sciences discovery fund,
29 leveraging those moneys with amounts received from other public and
30 private sources in accordance with contribution agreements, to promote
31 life sciences research;

32 (2) Solicit and receive gifts, grants, and bequests, and enter into
33 contribution agreements with private entities and public entities other
34 than the state to receive moneys in consideration of the authority's
35 promise to leverage those moneys with amounts received through
36 appropriations from the legislature and contributions from other public
37 entities and private entities, in order to use those moneys to promote

1 life sciences research. Nonstate moneys received by the authority for
2 this purpose shall be deposited in the life sciences discovery fund
3 created in section 8 of this act;

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

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

9 (5) Make grants to entities pursuant to contract for the promotion
10 of life sciences research to be conducted in the state. Grant
11 agreements shall specify deliverables to be provided by the recipient
12 pursuant to the grant. The authority shall solicit requests for
13 funding and evaluate the requests by reference to factors such as: (a)
14 The quality of the proposed research; (b) its potential to improve
15 health outcomes, with particular attention to the likelihood that it
16 will also lower health care costs, substitute for a more costly
17 diagnostic or treatment modality, or offer a breakthrough treatment for
18 a particular disease or condition; (c) its potential for leveraging
19 additional funding; (d) its potential to provide health care benefits
20 or benefit human learning and development; (e) its potential to
21 stimulate the health care delivery, biomedical manufacturing, and life
22 sciences related employment in the state; (f) the geographic diversity
23 of the grantees within Washington; (g) evidence of potential royalty
24 income and contractual means to recapture such income for purposes of
25 this chapter; and (h) evidence of public and private collaboration;

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

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

30 NEW SECTION. **Sec. 5.** GENERAL POWERS--RESTRICTIONS. The authority
31 has all the general powers necessary to carry out its purposes and
32 duties and to exercise its specific powers. In addition to other
33 powers specified in this chapter, the authority may: (1) Sue and be
34 sued in its own name; (2) make and execute agreements, contracts, and
35 other instruments, with any public or private person or entity, in
36 accordance with this chapter; (3) employ, contract with, or engage
37 independent counsel, financial advisors, auditors, other technical or

1 professional assistants, and such other personnel as are necessary or
2 desirable to implement this chapter; (4) establish such special funds,
3 and controls on deposits to and disbursements from them, as it finds
4 convenient for the implementation of this chapter; (5) enter into
5 contracts with public and private entities for life sciences research
6 to be conducted in the state; (6) adopt rules, consistent with this
7 chapter; (7) delegate any of its powers and duties if consistent with
8 the purposes of this chapter; (8) exercise any other power reasonably
9 required to implement the purposes of this chapter; and (9) hire staff
10 and pay administrative costs.

11 NEW SECTION. **Sec. 6.** LIMITATION OF LIABILITY. Members of the
12 board and persons acting on behalf of the authority, while acting
13 within the scope of their employment or agency, are not subject to
14 personal liability resulting from carrying out the powers and duties
15 conferred on them under this chapter. Neither the state nor the
16 authority is liable for any loss, damage, harm, or other consequence
17 resulting directly or indirectly from grants made by the authority or
18 by any life sciences research funded by such grants.

19 NEW SECTION. **Sec. 7.** DISSOLUTION OF THE AUTHORITY. The authority
20 may petition the legislature to be dissolved upon a showing that it has
21 no reason to exist and that any assets it retains must be distributed
22 to one or more similar entities approved by the legislature. The
23 legislature reserves the right to dissolve the authority after its
24 contractual obligations to its funders and grant recipients have
25 expired.

26 NEW SECTION. **Sec. 8.** LIFE SCIENCES DISCOVERY FUND. The life
27 sciences discovery fund is created in the custody of the state
28 treasurer. Only the board or the board's designee may authorize
29 expenditures from the fund. Expenditures from the fund may be made
30 only for purposes of this chapter. Administrative expenses of the
31 authority, including staff support, may be paid only from the fund.
32 Revenues to the fund consist of transfers made by the legislature from
33 strategic contribution payments deposited in the tobacco settlement
34 account under RCW 43.79.480, moneys received pursuant to contribution

1 agreements entered into pursuant to section 4 of this act, moneys
2 received from gifts, grants, and bequests, and interest earned on the
3 fund.

4 NEW SECTION. **Sec. 9.** By December 1, 2005, the executive director
5 of the life sciences discovery fund authority shall explore and make
6 recommendations to the legislature regarding the potential for the
7 state to receive royalty income and direct it to the higher education
8 legacy trust fund.

9 NEW SECTION. **Sec. 10.** By December 1, 2006, the executive director
10 of the life sciences discovery fund shall provide a report to the
11 legislature on the anticipated return on investment to the state from
12 the investment of public funds in the life sciences discovery fund,
13 including potential job growth, royalty income, intellectual property
14 rights, and other significant long-term benefits to the state.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.04 RCW
16 to read as follows:

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

20 **Sec. 12.** RCW 43.79.480 and 2002 c 365 s 15 are each amended to
21 read as follows:

22 (1) Moneys received by the state of Washington in accordance with
23 the settlement of the state's legal action against tobacco product
24 manufacturers, exclusive of costs and attorneys' fees, shall be
25 deposited in the tobacco settlement account created in this section
26 except as these moneys are sold or assigned under chapter 43.340 RCW.

27 (2) The tobacco settlement account is created in the state
28 treasury. Moneys in the tobacco settlement account may only be
29 transferred to the health services account for the purposes set forth
30 in RCW 43.72.900, and to the tobacco prevention and control account for
31 purposes set forth in this section. The legislature shall transfer
32 amounts received as strategic contribution payments as defined in
33 section 2 of this act to the life sciences discovery fund created in
34 section 8 of this act.

1 (3) The tobacco prevention and control account is created in the
2 state treasury. The source of revenue for this account is moneys
3 transferred to the account from the tobacco settlement account,
4 investment earnings, donations to the account, and other revenues as
5 directed by law. Expenditures from the account are subject to
6 appropriation.

7 **Sec. 13.** RCW 42.30.110 and 2003 c 277 s 1 are each amended to read
8 as follows:

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

12 (a) To consider matters affecting national security;

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

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

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

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

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

31 (g) To evaluate the qualifications of an applicant for public
32 employment or to review the performance of a public employee. However,
33 subject to RCW 42.30.140(4), discussion by a governing body of
34 salaries, wages, and other conditions of employment to be generally
35 applied within the agency shall occur in a meeting open to the public,
36 and when a governing body elects to take final action hiring, setting

1 the salary of an individual employee or class of employees, or
2 discharging or disciplining an employee, that action shall be taken in
3 a meeting open to the public;

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

8 (i) To discuss with legal counsel representing the agency matters
9 relating to agency enforcement actions, or to discuss with legal
10 counsel representing the agency litigation or potential litigation to
11 which the agency, the governing body, or a member acting in an official
12 capacity is, or is likely to become, a party, when public knowledge
13 regarding the discussion is likely to result in an adverse legal or
14 financial consequence to the agency.

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

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

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

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

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

36 (k) To consider, in the case of the state investment board,
37 financial and commercial information when the information relates to

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

4 (1) To consider proprietary or confidential nonpublished
5 information related to the development, acquisition, or implementation
6 of state purchased health care services as provided in RCW 41.05.026;

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

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

16 NEW SECTION. Sec. 14. A new section is added to chapter 41.06 RCW
17 to read as follows:

18 In addition to the exemptions set forth in RCW 41.06.070, this
19 chapter does not apply to employees of the life sciences discovery fund
20 authority under chapter 43.-- RCW (sections 1 through 8 of this act).

21 **Sec. 15.** RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277
22 s 3, and 2003 c 124 s 1 are each reenacted and amended to read as
23 follows:

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

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

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

31 (c) Information required of any taxpayer in connection with the
32 assessment or collection of any tax if the disclosure of the
33 information to other persons would (i) be prohibited to such persons by
34 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
35 taxpayer's right to privacy or result in unfair competitive
36 disadvantage to the taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (w)(i) The federal social security number of individuals governed
14 under chapter 18.130 RCW maintained in the files of the department of
15 health, except this exemption does not apply to requests made directly
16 to the department from federal, state, and local agencies of
17 government, and national and state licensing, credentialing,
18 investigatory, disciplinary, and examination organizations; (ii) the
19 current residential address and current residential telephone number of
20 a health care provider governed under chapter 18.130 RCW maintained in
21 the files of the department, if the provider requests that this
22 information be withheld from public inspection and copying, and
23 provides to the department an accurate alternate or business address
24 and business telephone number. On or after January 1, 1995, the
25 current residential address and residential telephone number of a
26 health care provider governed under RCW 18.130.040 maintained in the
27 files of the department shall automatically be withheld from public
28 inspection and copying unless the provider specifically requests the
29 information be released, and except as provided for under RCW
30 42.17.260(9).

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

33 (y) Information obtained by the board of pharmacy or the department
34 of health and its representatives as provided in RCW 69.41.044,
35 69.41.280, and 18.64.420.

36 (z) Financial information, business plans, examination reports, and
37 any information produced or obtained in evaluating or examining a

1 business and industrial development corporation organized or seeking
2 certification under chapter 31.24 RCW.

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

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

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

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

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

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

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

28 (hh) Information and documents created specifically for, and
29 collected and maintained by a quality improvement committee pursuant to
30 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
31 4.24.250, regardless of which agency is in possession of the
32 information and documents.

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

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

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

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

11 (mm) The personally identifying information of current or former
12 participants or applicants in a paratransit or other transit service
13 operated for the benefit of persons with disabilities or elderly
14 persons.

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

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

1 under this chapter, the submitting entity must be joined as a party to
2 demonstrate the continuing need for confidentiality.

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

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

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

16 (ss) Credit card numbers, debit card numbers, electronic check
17 numbers, card expiration dates, or bank or other financial account
18 numbers, except when disclosure is expressly required by or governed by
19 other law.

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

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

28 (vv) Individually identifiable information received by the work
29 force training and education coordinating board for research or
30 evaluation purposes.

31 (ww) Those portions of records assembled, prepared, or maintained
32 to prevent, mitigate, or respond to criminal terrorist acts, which are
33 acts that significantly disrupt the conduct of government or of the
34 general civilian population of the state or the United States and that
35 manifest an extreme indifference to human life, the public disclosure
36 of which would have a substantial likelihood of threatening public
37 safety, consisting of:

1 (i) Specific and unique vulnerability assessments or specific and
2 unique response or deployment plans, including compiled underlying data
3 collected in preparation of or essential to the assessments, or to the
4 response or deployment plans; and

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

10 (xx) Commercial fishing catch data from logbooks required to be
11 provided to the department of fish and wildlife under RCW 77.12.047,
12 when the data identifies specific catch location, timing, or
13 methodology and the release of which would result in unfair competitive
14 disadvantage to the commercial fisher providing the catch data.
15 However, this information may be released to government agencies
16 concerned with the management of fish and wildlife resources.

17 (yy) Sensitive wildlife data obtained by the department of fish and
18 wildlife. However, sensitive wildlife data may be released to
19 government agencies concerned with the management of fish and wildlife
20 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

34 (zz) The personally identifying information of persons who acquire
35 recreational licenses under RCW 77.32.010 or commercial licenses under
36 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
37 department, and type of license, endorsement, or tag. However, the

1 department of fish and wildlife may disclose personally identifying
2 information to:

3 (i) Government agencies concerned with the management of fish and
4 wildlife resources;

5 (ii) The department of social and health services, child support
6 division, and to the department of licensing in order to implement RCW
7 77.32.014 and 46.20.291; and

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

10 (aaa)(i) Discharge papers of a veteran of the armed forces of the
11 United States filed at the office of the county auditor before July 1,
12 2002, that have not been commingled with other recorded documents.
13 These records will be available only to the veteran, the veteran's next
14 of kin, a deceased veteran's properly appointed personal representative
15 or executor, a person holding that veteran's general power of attorney,
16 or to anyone else designated in writing by that veteran to receive the
17 records.

18 (ii) Discharge papers of a veteran of the armed forces of the
19 United States filed at the office of the county auditor before July 1,
20 2002, that have been commingled with other records, if the veteran has
21 recorded a "request for exemption from public disclosure of discharge
22 papers" with the county auditor. If such a request has been recorded,
23 these records may be released only to the veteran filing the papers,
24 the veteran's next of kin, a deceased veteran's properly appointed
25 personal representative or executor, a person holding the veteran's
26 general power of attorney, or anyone else designated in writing by the
27 veteran to receive the records.

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

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

1 (bbb) Those portions of records containing specific and unique
2 vulnerability assessments or specific and unique emergency and escape
3 response plans at a city, county, or state adult or juvenile
4 correctional facility, the public disclosure of which would have a
5 substantial likelihood of threatening the security of a city, county,
6 or state adult or juvenile correctional facility or any individual's
7 safety.

8 (ccc) Information compiled by school districts or schools in the
9 development of their comprehensive safe school plans pursuant to RCW
10 28A.320.125, to the extent that they identify specific vulnerabilities
11 of school districts and each individual school.

12 (ddd) Information regarding the infrastructure and security of
13 computer and telecommunications networks, consisting of security
14 passwords, security access codes and programs, access codes for secure
15 software applications, security and service recovery plans, security
16 risk assessments, and security test results to the extent that they
17 identify specific system vulnerabilities.

18 (eee) Information obtained and exempted or withheld from public
19 inspection by the health care authority under RCW 41.05.026, whether
20 retained by the authority, transferred to another state purchased
21 health care program by the authority, or transferred by the authority
22 to a technical review committee created to facilitate the development,
23 acquisition, or implementation of state purchased health care under
24 chapter 41.05 RCW.

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

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

34 (hhh) Financial, commercial, operations, and technical and research
35 information and data submitted to or obtained by the life sciences
36 discovery fund authority in applications for, or delivery of, grants
37 under chapter 43.-- RCW (sections 1 through 8 of this act), to the

1 extent that such information, if revealed, would reasonably be expected
2 to result in private loss to the providers of this information.

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

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

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

21 **Sec. 16.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
22 each reenacted and amended to read as follows:

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

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

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

30 (c) Information required of any taxpayer in connection with the
31 assessment or collection of any tax if the disclosure of the
32 information to other persons would (i) be prohibited to such persons by
33 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
34 taxpayer's right to privacy or result in unfair competitive
35 disadvantage to the taxpayer.

36 (d) Specific intelligence information and specific investigative
37 records compiled by investigative, law enforcement, and penology

1 agencies, and state agencies vested with the responsibility to
2 discipline members of any profession, the nondisclosure of which is
3 essential to effective law enforcement or for the protection of any
4 person's right to privacy.

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

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

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

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

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

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

36 (k) Records, maps, or other information identifying the location of
37 archaeological sites in order to avoid the looting or depredation of
38 such sites.

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

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

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

13 (o) Financial and commercial information and records supplied by
14 private persons pertaining to export services provided pursuant to
15 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
16 export projects pursuant to RCW 43.23.035.

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

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

22 (r) Financial and commercial information and records supplied by
23 businesses or individuals during application for loans or program
24 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
25 or during application for economic development loans or program
26 services provided by any local agency.

27 (s) Membership lists or lists of members or owners of interests of
28 units in timeshare projects, subdivisions, camping resorts,
29 condominiums, land developments, or common-interest communities
30 affiliated with such projects, regulated by the department of
31 licensing, in the files or possession of the department.

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

35 (u) The residential addresses or residential telephone numbers of
36 employees or volunteers of a public agency which are held by any public
37 agency in personnel records, public employment related records, or

1 volunteer rosters, or are included in any mailing list of employees or
2 volunteers of any public agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (hh) Information and documents created specifically for, and
25 collected and maintained by a quality improvement committee pursuant to
26 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
27 4.24.250, regardless of which agency is in possession of the
28 information and documents.

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

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

34 (kk) Names of individuals residing in emergency or transitional
35 housing that are furnished to the department of revenue or a county
36 assessor in order to substantiate a claim for property tax exemption
37 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) Credit card numbers, debit card numbers, electronic check
12 numbers, card expiration dates, or bank or other financial account
13 numbers, except when disclosure is expressly required by or governed by
14 other law.

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

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

23 (vv) Individually identifiable information received by the work
24 force training and education coordinating board for research or
25 evaluation purposes.

26 (ww) Those portions of records assembled, prepared, or maintained
27 to prevent, mitigate, or respond to criminal terrorist acts, which are
28 acts that significantly disrupt the conduct of government or of the
29 general civilian population of the state or the United States and that
30 manifest an extreme indifference to human life, the public disclosure
31 of which would have a substantial likelihood of threatening public
32 safety, consisting of:

33 (i) Specific and unique vulnerability assessments or specific and
34 unique response or deployment plans, including compiled underlying data
35 collected in preparation of or essential to the assessments, or to the
36 response or deployment plans; and

37 (ii) Records not subject to public disclosure under federal law
38 that are shared by federal or international agencies, and information

1 prepared from national security briefings provided to state or local
2 government officials related to domestic preparedness for acts of
3 terrorism.

4 (xx) Commercial fishing catch data from logbooks required to be
5 provided to the department of fish and wildlife under RCW 77.12.047,
6 when the data identifies specific catch location, timing, or
7 methodology and the release of which would result in unfair competitive
8 disadvantage to the commercial fisher providing the catch data.
9 However, this information may be released to government agencies
10 concerned with the management of fish and wildlife resources.

11 (yy) Sensitive wildlife data obtained by the department of fish and
12 wildlife. However, sensitive wildlife data may be released to
13 government agencies concerned with the management of fish and wildlife
14 resources. Sensitive wildlife data includes:

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

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

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

- 23 (A) The species has a known commercial or black market value;
- 24 (B) There is a history of malicious take of that species; or
- 25 (C) There is a known demand to visit, take, or disturb, and the
26 species behavior or ecology renders it especially vulnerable or the
27 species has an extremely limited distribution and concentration.

28 (zz) The personally identifying information of persons who acquire
29 recreational licenses under RCW 77.32.010 or commercial licenses under
30 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
31 department, and type of license, endorsement, or tag. However, the
32 department of fish and wildlife may disclose personally identifying
33 information to:

34 (i) Government agencies concerned with the management of fish and
35 wildlife resources;

36 (ii) The department of social and health services, child support
37 division, and to the department of licensing in order to implement RCW
38 77.32.014 and 46.20.291; and

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

3 (aaa)(i) Discharge papers of a veteran of the armed forces of the
4 United States filed at the office of the county auditor before July 1,
5 2002, that have not been commingled with other recorded documents.
6 These records will be available only to the veteran, the veteran's next
7 of kin, a deceased veteran's properly appointed personal representative
8 or executor, a person holding that veteran's general power of attorney,
9 or to anyone else designated in writing by that veteran to receive the
10 records.

11 (ii) Discharge papers of a veteran of the armed forces of the
12 United States filed at the office of the county auditor before July 1,
13 2002, that have been commingled with other records, if the veteran has
14 recorded a "request for exemption from public disclosure of discharge
15 papers" with the county auditor. If such a request has been recorded,
16 these records may be released only to the veteran filing the papers,
17 the veteran's next of kin, a deceased veteran's properly appointed
18 personal representative or executor, a person holding the veteran's
19 general power of attorney, or anyone else designated in writing by the
20 veteran to receive the records.

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

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

31 (bbb) Those portions of records containing specific and unique
32 vulnerability assessments or specific and unique emergency and escape
33 response plans at a city, county, or state adult or juvenile
34 correctional facility, the public disclosure of which would have a
35 substantial likelihood of threatening the security of a city, county,
36 or state adult or juvenile correctional facility or any individual's
37 safety.

1 (ccc) Information compiled by school districts or schools in the
2 development of their comprehensive safe school plans pursuant to RCW
3 28A.320.125, to the extent that they identify specific vulnerabilities
4 of school districts and each individual school.

5 (ddd) Information regarding the infrastructure and security of
6 computer and telecommunications networks, consisting of security
7 passwords, security access codes and programs, access codes for secure
8 software applications, security and service recovery plans, security
9 risk assessments, and security test results to the extent that they
10 identify specific system vulnerabilities.

11 (eee) Information obtained and exempted or withheld from public
12 inspection by the health care authority under RCW 41.05.026, whether
13 retained by the authority, transferred to another state purchased
14 health care program by the authority, or transferred by the authority
15 to a technical review committee created to facilitate the development,
16 acquisition, or implementation of state purchased health care under
17 chapter 41.05 RCW.

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

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

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

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

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

11 **Sec. 17.** RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are
12 each reenacted and amended to read as follows:

13 For the purposes of RCW 42.17.240, the term "executive state
14 officer" includes:

15 (1) The chief administrative law judge, the director of
16 agriculture, the administrator of the Washington basic health plan, the
17 director of the department of services for the blind, the director of
18 the state system of community and technical colleges, the director of
19 community, trade, and economic development, the secretary of
20 corrections, the director of ecology, the commissioner of employment
21 security, the (~~chairman~~) chair of the energy facility site evaluation
22 council, the secretary of the state finance committee, the director of
23 financial management, the director of fish and wildlife, the executive
24 secretary of the forest practices appeals board, the director of the
25 gambling commission, the director of general administration, the
26 secretary of health, the administrator of the Washington state health
27 care authority, the executive secretary of the health care facilities
28 authority, the executive secretary of the higher education facilities
29 authority, the executive secretary of the horse racing commission, the
30 executive secretary of the human rights commission, the executive
31 secretary of the indeterminate sentence review board, the director of
32 the department of information services, the director of the interagency
33 committee for outdoor recreation, the executive director of the state
34 investment board, the director of labor and industries, the director of
35 licensing, the director of the lottery commission, the director of the
36 office of minority and women's business enterprises, the director of
37 parks and recreation, the director of personnel, the executive director

1 of the public disclosure commission, the director of retirement
2 systems, the director of revenue, the secretary of social and health
3 services, the chief of the Washington state patrol, the executive
4 secretary of the board of tax appeals, the secretary of transportation,
5 the secretary of the utilities and transportation commission, the
6 director of veterans affairs, the president of each of the regional and
7 state universities and the president of The Evergreen State College,
8 each district and each campus president of each state community
9 college;

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

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

12 (4) Central Washington University board of trustees, board of
13 trustees of each community college, each member of the state board for
14 community and technical colleges, state convention and trade center
15 board of directors, committee for deferred compensation, Eastern
16 Washington University board of trustees, Washington economic
17 development finance authority, The Evergreen State College board of
18 trustees, executive ethics board, forest practices appeals board,
19 forest practices board, gambling commission, life sciences discovery
20 fund authority board of trustees, Washington health care facilities
21 authority, each member of the Washington health services commission,
22 higher education coordinating board, higher education facilities
23 authority, horse racing commission, state housing finance commission,
24 human rights commission, indeterminate sentence review board, board of
25 industrial insurance appeals, information services board, interagency
26 committee for outdoor recreation, state investment board, commission on
27 judicial conduct, legislative ethics board, liquor control board,
28 lottery commission, marine oversight board, Pacific Northwest electric
29 power and conservation planning council, parks and recreation
30 commission, personnel appeals board, board of pilotage commissioners,
31 pollution control hearings board, public disclosure commission, public
32 pension commission, shorelines hearing board, public employees'
33 benefits board, salmon recovery funding board, board of tax appeals,
34 transportation commission, University of Washington board of regents,
35 utilities and transportation commission, Washington state maritime
36 commission, Washington personnel resources board, Washington public
37 power supply system executive board, Washington State University board

1 of regents, Western Washington University board of trustees, and fish
2 and wildlife commission.

3 **Sec. 18.** RCW 43.79A.040 and 2004 c 246 s 8 and 2004 c 58 s 10 are
4 each reenacted and amended to read as follows:

5 (1) Money in the treasurer's trust fund may be deposited, invested,
6 and reinvested by the state treasurer in accordance with RCW 43.84.080
7 in the same manner and to the same extent as if the money were in the
8 state treasury.

9 (2) All income received from investment of the treasurer's trust
10 fund shall be set aside in an account in the treasury trust fund to be
11 known as the investment income account.

12 (3) The investment income account may be utilized for the payment
13 of purchased banking services on behalf of treasurer's trust funds
14 including, but not limited to, depository, safekeeping, and
15 disbursement functions for the state treasurer or affected state
16 agencies. The investment income account is subject in all respects to
17 chapter 43.88 RCW, but no appropriation is required for payments to
18 financial institutions. Payments shall occur prior to distribution of
19 earnings set forth in subsection (4) of this section.

20 (4)(a) Monthly, the state treasurer shall distribute the earnings
21 credited to the investment income account to the state general fund
22 except under (b) and (c) of this subsection.

23 (b) The following accounts and funds shall receive their
24 proportionate share of earnings based upon each account's or fund's
25 average daily balance for the period: The Washington promise
26 scholarship account, the college savings program account, the
27 Washington advanced college tuition payment program account, the
28 agricultural local fund, the American Indian scholarship endowment
29 fund, the students with dependents grant account, the basic health plan
30 self-insurance reserve account, the contract harvesting revolving
31 account, the Washington state combined fund drive account, the
32 Washington international exchange scholarship endowment fund, the
33 developmental disabilities endowment trust fund, the energy account,
34 the fair fund, the fruit and vegetable inspection account, the future
35 teachers conditional scholarship account, the game farm alternative
36 account, the grain inspection revolving fund, the juvenile
37 accountability incentive account, the law enforcement officers' and

1 fire fighters' plan 2 expense fund, the local tourism promotion
2 account, the produce railcar pool account, the rural rehabilitation
3 account, the stadium and exhibition center account, the youth athletic
4 facility account, the self-insurance revolving fund, the sulfur dioxide
5 abatement account, the children's trust fund, the Washington horse
6 racing commission Washington bred owners' bonus fund account, the
7 Washington horse racing commission class C purse fund account, ((and))
8 the Washington horse racing commission operating account (earnings from
9 the Washington horse racing commission operating account must be
10 credited to the Washington horse racing commission class C purse fund
11 account), and the life sciences discovery fund. However, the earnings
12 to be distributed shall first be reduced by the allocation to the state
13 treasurer's service fund pursuant to RCW 43.08.190.

14 (c) The following accounts and funds shall receive eighty percent
15 of their proportionate share of earnings based upon each account's or
16 fund's average daily balance for the period: The advanced right of way
17 revolving fund, the advanced environmental mitigation revolving
18 account, the city and county advance right-of-way revolving fund, the
19 federal narcotics asset forfeitures account, the high occupancy vehicle
20 account, the local rail service assistance account, and the
21 miscellaneous transportation programs account.

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

25 NEW SECTION. **Sec. 19.** CAPTIONS. Captions used in this act are
26 not any part of the law.

27 NEW SECTION. **Sec. 20.** LIBERAL CONSTRUCTION. This act, being
28 necessary for the welfare of the state and its inhabitants, shall be
29 liberally construed.

30 NEW SECTION. **Sec. 21.** CODIFICATION. Sections 1 through 8 of this
31 act constitute a new chapter in Title 43 RCW.

32 NEW SECTION. **Sec. 22.** SEVERABILITY. If any provision of this act
33 or its application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 23.** EXPIRATION DATES. Section 15 of this act
4 expires June 30, 2005.

5 NEW SECTION. **Sec. 24.** EFFECTIVE DATE. This act is necessary for
6 the immediate preservation of the public peace, health, or safety, or
7 support of the state government and its existing public institutions,
8 and takes effect immediately, except for section 16 of this act, which
9 takes effect June 30, 2005."

10 Correct the title.

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