
HOUSE BILL 1133

State of Washington

59th Legislature

2005 Regular Session

By Representatives Nixon, Haigh and Shabro

Read first time 01/17/2005. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to creating the public records act by recodifying
2 and making technical changes to existing law; amending RCW 42.30.900,
3 2.64.111, 9.41.097, 9.41.129, 10.29.030, 10.29.090, 10.97.080,
4 10.97.140, 10.98.200, 10.99.090, 13.40.570, 15.19.080, 15.26.295,
5 15.28.315, 15.44.185, 15.58.060, 15.65.203, 15.66.105, 15.86.110,
6 15.88.170, 16.67.180, 18.27.120, 18.32.040, 18.39.450, 18.44.031,
7 18.51.290, 18.64.420, 18.71.0195, 18.71.340, 18.106.320, 18.130.085,
8 18.130.095, 18.130.110, 18.130.175, 19.28.171, 19.34.240, 19.80.065,
9 19.230.190, 21.20.855, 21.30.170, 22.09.640, 26.12.170, 26.23.120,
10 27.53.070, 28A.320.160, 28A.410.095, 28B.85.020, 28C.10.050,
11 29A.04.225, 29A.60.070, 29A.60.140, 30.04.075, 30.04.230, 30.04.410,
12 31.12.565, 31.45.030, 31.45.077, 31.45.090, 32.04.220, 32.32.228,
13 32.32.275, 33.04.110, 34.05.325, 35.02.130, 35.21.228, 35.21.759,
14 35.102.040, 35A.21.300, 36.01.210, 36.28A.060, 36.57.120, 36.57A.170,
15 36.70B.220, 36.70C.120, 36.102.200, 39.10.100, 40.07.040, 41.05.026,
16 41.06.160, 41.06.167, 41.06.450, 41.06.455, 42.17.245, 42.17.251,
17 42.17.260, 42.17.270, 42.17.305, 42.17.311, 42.17.340, 42.17.341,
18 42.17.348, 42.17.945, 42.48.030, 42.52.050, 42.52.810, 43.06A.050,
19 43.21L.120, 43.22.434, 43.33A.025, 43.43.856, 43.52.570, 43.52.612,
20 43.70.050, 43.70.510, 44.05.080, 46.12.380, 46.12.390, 46.20.041,
21 46.20.118, 47.64.220, 48.02.065, 48.20.530, 48.21.330, 48.30A.060,

1 48.32A.185, 48.44.470, 48.46.540, 48.62.101, 48.94.010, 48.104.050,
2 50.13.015, 50.13.030, 50.13.040, 50.13.060, 50.13.080, 50.38.060,
3 51.36.120, 52.14.100, 69.41.044, 69.41.280, 69.45.090, 70.02.090,
4 70.38.095, 70.41.150, 70.44.315, 70.45.030, 70.47.150, 70.77.455,
5 70.95C.220, 70.102.020, 70.120.100, 70.148.060, 70.149.090, 70.168.070,
6 70.168.090, 70.190.060, 72.09.116, 72.09.225, 73.04.030, 74.09A.020,
7 74.13.500, 74.13.515, 74.13.525, 74.34.063, 74.39A.200, 74.46.820,
8 76.09.060, 80.04.095, 81.104.115, 81.112.180, 82.32.410, 84.08.210,
9 84.40.020, 90.14.068, and 90.80.135; reenacting and amending RCW
10 66.28.180, 71.05.390, 82.32.330, and 42.17.310; adding new sections to
11 chapter 42.30 RCW; creating new sections; recodifying RCW 42.17.250,
12 42.17.251, 42.17.255, 42.17.258, 42.17.260, 42.17.270, 42.17.280,
13 42.17.290, 42.17.295, 42.17.300, 42.17.305, 42.17.310, 42.17.311,
14 42.17.320, 42.17.325, 42.17.330, 42.17.340, 42.17.341, and 42.17.348;
15 repealing RCW 42.17.312, 42.17.313, 42.17.314, 42.17.315, 42.17.316,
16 42.17.317, 42.17.318, 42.17.319, 42.17.31901, 42.17.31902, 42.17.31903,
17 42.17.31904, 42.17.31905, 42.17.31906, 42.17.31907, 42.17.31908,
18 42.17.31909, 42.17.31910, 42.17.31911, 42.17.31912, 42.17.31913,
19 42.17.31914, 42.17.31915, 42.17.31916, 42.17.31917, 42.17.31918,
20 42.17.31919, 42.17.31920, and 42.17.31921; and providing an effective
21 date.

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

23 NEW SECTION. **Sec. 1.** The legislature finds that chapter 42.17 RCW
24 contains laws relating to several discrete subjects. Therefore, the
25 purpose of this act is to recodify some of those laws and create a new
26 chapter in the Revised Code of Washington that contains laws pertaining
27 to open government.

28 **PART I**
29 **OPEN GOVERNMENT ACT**

30 NEW SECTION. **Sec. 101.** The definitions in RCW 42.17.020 apply
31 throughout this chapter.

32 **Sec. 102.** RCW 42.30.900 and 1971 ex.s. c 250 s 16 are each amended
33 to read as follows:

1 This chapter may be cited as the (~~"Open Public Meetings Act of~~
2 ~~1971"~~) open government act.

3 NEW SECTION. Sec. 103. The following sections are each
4 recodified as new sections in chapter 42.30 RCW:

- 5 RCW 42.17.250
- 6 RCW 42.17.251
- 7 RCW 42.17.255
- 8 RCW 42.17.258
- 9 RCW 42.17.260
- 10 RCW 42.17.270
- 11 RCW 42.17.280
- 12 RCW 42.17.290
- 13 RCW 42.17.295
- 14 RCW 42.17.300
- 15 RCW 42.17.305
- 16 RCW 42.17.310
- 17 RCW 42.17.311
- 18 RCW 42.17.320
- 19 RCW 42.17.325
- 20 RCW 42.17.330
- 21 RCW 42.17.340
- 22 RCW 42.17.341
- 23 RCW 42.17.348

24 **PART II**

25 **TECHNICAL CORRECTIONS**

26 **Sec. 201.** RCW 2.64.111 and 1989 c 367 s 6 are each amended to read
27 as follows:

28 All pleadings, papers, evidence records, and files of the
29 commission, including complaints and the identity of complainants,
30 compiled or obtained during the course of an investigation or initial
31 proceeding involving the discipline or retirement of a judge or
32 justice, are exempt from the public disclosure requirements of chapter
33 (~~42.17~~) 42.30 RCW during such investigation or initial proceeding.
34 As of the date of a public hearing, all those records of the initial

1 proceeding that were the basis of a finding of probable cause are
2 subject to the public disclosure requirements of chapter ((42.17))
3 42.30 RCW.

4 **Sec. 202.** RCW 9.41.097 and 1994 sp.s. c 7 s 412 are each amended
5 to read as follows:

6 (1) The department of social and health services, mental health
7 institutions, and other health care facilities shall, upon request of
8 a court or law enforcement agency, supply such relevant information as
9 is necessary to determine the eligibility of a person to possess a
10 pistol or to be issued a concealed pistol license under RCW 9.41.070 or
11 to purchase a pistol under RCW 9.41.090.

12 (2) Mental health information received by: (a) The department of
13 licensing pursuant to RCW 9.41.047 or 9.41.170; (b) an issuing
14 authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police
15 or sheriff pursuant to RCW 9.41.090 or 9.41.170; (d) a court or law
16 enforcement agency pursuant to subsection (1) of this section, shall
17 not be disclosed except as provided in ((RCW 42.17.318)) section 404(4)
18 of this act.

19 **Sec. 203.** RCW 9.41.129 and 1994 sp.s. c 7 s 417 are each amended
20 to read as follows:

21 The department of licensing may keep copies or records of
22 applications for concealed pistol licenses provided for in RCW
23 9.41.070, copies or records of applications for alien firearm licenses,
24 copies or records of applications to purchase pistols provided for in
25 RCW 9.41.090, and copies or records of pistol transfers provided for in
26 RCW 9.41.110. The copies and records shall not be disclosed except as
27 provided in ((RCW 42.17.318)) section 404(4) of this act.

28 **Sec. 204.** RCW 10.29.030 and 1980 c 146 s 3 are each amended to
29 read as follows:

30 (1) The organized crime advisory board shall have the authority, by
31 a three-fourths vote at a regularly constituted meeting, to petition
32 the Washington state supreme court for an order appointing a special
33 inquiry judge as prescribed by this section. Such vote may be on its
34 own motion or pursuant to a request from the prosecuting attorney of
35 any county. In the event of such request from a prosecuting attorney

1 the board shall vote on the question promptly. A petition filed under
2 this section shall state the general crimes or wrongs to be inquired
3 into and shall state the reasons why said crimes or wrongs are such
4 that a statewide special inquiry judge should be authorized to
5 investigate. The supreme court may order the appointment of a
6 statewide special inquiry judge, in accordance with the petition, for
7 a term of six calendar months. Upon petition by the special
8 prosecutor, and with the approval of the majority of the members of the
9 organized crime advisory board, the supreme court, by order, may extend
10 the term of the statewide special inquiry judge for three months. The
11 term of the statewide special inquiry judge may subsequently be
12 extended in the same manner for additional three-month periods.

13 (2) If the petition is granted, the supreme court shall designate
14 a judge of a superior court to act as a special inquiry judge. The
15 supreme court shall ensure that sufficient visiting judges are made
16 available to the superior court from which the appointment is made in
17 order to compensate for any loss of judicial time.

18 (3) All of the information and data collected and processed by the
19 organized crime advisory board and the petition filed with the supreme
20 court shall be confidential and not subject to examination or
21 publication pursuant to chapter (~~42.17 RCW (Initiative Measure No.~~
22 ~~276), as now existing or hereafter amended~~) 42.30 RCW, except as
23 provided by rules of the supreme court of Washington in the case of the
24 petition.

25 **Sec. 205.** RCW 10.29.090 and 1980 c 146 s 9 are each amended to
26 read as follows:

27 Within ten days of his or her appointment, a special prosecutor
28 selected under this chapter shall submit to the organized crime
29 advisory board an operating budget to fund the activities of his or her
30 office. The budget may include, but shall not be limited to, funds for
31 the hiring of assistant special prosecutors, investigators, and
32 clerical staff. Upon the approval of the budget by a majority of the
33 members of the board, the costs and expenses of the prosecutor's
34 operating budget shall be paid for by the state out of the organized
35 crime prosecution revolving fund. Further operating budgets shall be
36 proposed, approved, and funded pursuant to this section if the term of

1 a statewide special inquiry judge is extended pursuant to RCW
2 10.29.030.

3 Vouchers and other budget and accounting records of a special
4 inquiry judge proceeding including such records of the special
5 prosecutor shall be subject to audit by the state auditor but shall not
6 be public records within the meaning of chapter ((42.17)) 42.30 RCW.

7 **Sec. 206.** RCW 10.97.080 and 1979 ex.s. c 36 s 3 are each amended
8 to read as follows:

9 All criminal justice agencies shall permit an individual who is, or
10 who believes that he may be, the subject of a criminal record
11 maintained by that agency, to appear in person during normal business
12 hours of that criminal justice agency and request to see the criminal
13 history record information held by that agency pertaining to the
14 individual. The individual's right to access and review of criminal
15 history record information shall not extend to data contained in
16 intelligence, investigative, or other related files, and shall not be
17 construed to include any information other than that defined as
18 criminal history record information by this chapter.

19 Every criminal justice agency shall adopt rules and make available
20 forms to facilitate the inspection and review of criminal history
21 record information by the subjects thereof, which rules may include
22 requirements for identification, the establishment of reasonable
23 periods of time to be allowed an individual to examine the record, and
24 for assistance by an individual's counsel, interpreter, or other
25 appropriate persons.

26 No person shall be allowed to retain or mechanically reproduce any
27 nonconviction data except for the purpose of challenge or correction
28 when the person who is the subject of the record asserts the belief in
29 writing that the information regarding such person is inaccurate or
30 incomplete. The provisions of chapter ((42.17)) 42.30 RCW shall not be
31 construed to require or authorize copying of nonconviction data for any
32 other purpose.

33 The Washington state patrol shall establish rules for the challenge
34 of records which an individual declares to be inaccurate or incomplete,
35 and for the resolution of any disputes between individuals and criminal
36 justice agencies pertaining to the accuracy and completeness of
37 criminal history record information. The Washington state patrol shall

1 also adopt rules for the correction of criminal history record
2 information and the dissemination of corrected information to agencies
3 and persons to whom inaccurate or incomplete information was previously
4 disseminated. Such rules may establish time limitations of not less
5 than ninety days upon the requirement for disseminating corrected
6 information.

7 **Sec. 207.** RCW 10.97.140 and 1999 c 326 s 4 are each amended to
8 read as follows:

9 Nothing in RCW 40.14.060(~~(τ)~~) or 40.14.070(~~(τ)~~) or (~~(42.17.310)~~)
10 chapter 42.30 RCW precludes dissemination of criminal history record
11 information, including nonconviction data, for the purposes of this
12 chapter.

13 **Sec. 208.** RCW 10.98.200 and 2003 c 104 s 1 are each amended to
14 read as follows:

15 (1) The legislature finds that each of the state's justice agencies
16 and the courts have developed independent information systems to
17 address independent management and planning needs, that the state's
18 justice information system is fragmented, and that access to complete,
19 accurate, and timely justice information is difficult and inefficient.

20 (2) The legislature declares that the purpose of chapter 104, Laws
21 of 2003 is to develop and maintain, in a cost-effective manner, a
22 statewide network of criminal justice information that enables sharing
23 and integrated delivery of justice information maintained in the
24 state's independent information systems and that will:

25 (a) Maximize standardization of data and communications technology
26 among law enforcement agencies, jails, prosecuting attorneys, the
27 courts, corrections, and licensing;

28 (b) Reduce redundant data collection and input efforts;

29 (c) Reduce or eliminate paper-based information exchanges;

30 (d) Improve work flow within the criminal justice system;

31 (e) Provide complete, accurate, and timely information to criminal
32 justice agencies and courts in a single computer session; and

33 (f) Maintain security and privacy rights respecting criminal
34 justice information.

35 (3) Statewide coordination of criminal justice information will
36 improve:

1 (a) The safety of the public and the safety of law enforcement
2 officers and other public servants, by making more complete, accurate,
3 and timely information concerning offenders available to all criminal
4 justice agencies and courts;

5 (b) Decision making, by increasing the availability of statistical
6 measures for review, evaluation, and promulgation of public policy; and

7 (c) Access to complete, accurate, and timely information by the
8 public, to the extent permitted pursuant to chapters 10.97 and
9 ((42.17)) 42.30 RCW.

10 (4) The legislature encourages state and local criminal justice
11 agencies and courts to collaborate in the development of justice
12 information systems, as criminal justice agencies and courts collect
13 the most complete, accurate, and timely information regarding
14 offenders.

15 (5) The legislature finds that the implementation, operation, and
16 continuing enhancement of a statewide justice information network that
17 enables sharing and integrated delivery of information maintained in
18 the state's independent information systems is critical to the
19 complete, accurate, and timely performance of criminal background
20 checks and to the effective communications between and among law
21 enforcement, the courts, executive agencies, and political subdivisions
22 of the state. The legislature further finds and declares that it is in
23 the best interests of the citizens of the state and for the enhancement
24 of public safety that the Washington integrated justice information
25 board be created as soon as possible.

26 (6) The legislature finds that the intent, purpose, and goals of
27 chapter 104, Laws of 2003 will be implemented most effectively by a
28 board having the power, authority, and responsibility to develop,
29 maintain, and enhance a statewide justice information network that
30 enables sharing and integrated delivery of justice information
31 maintained in the state's independent information systems.

32 **Sec. 209.** RCW 10.99.090 and 2004 c 18 s 3 are each amended to read
33 as follows:

34 (1) By December 1, 2004, the association shall develop a written
35 model policy on domestic violence committed or allegedly committed by
36 sworn employees of agencies. In developing the policy, the association

1 shall convene a work group consisting of representatives from the
2 following entities and professions:

3 (a) Statewide organizations representing state and local
4 enforcement officers;

5 (b) A statewide organization providing training and education for
6 agencies having the primary responsibility of serving victims of
7 domestic violence with emergency shelter and other services; and

8 (c) Any other organization or profession the association determines
9 to be appropriate.

10 (2) Members of the work group shall serve without compensation.

11 (3) The model policy shall provide due process for employees and,
12 at a minimum, meet the following standards:

13 (a) Provide prehire screening procedures reasonably calculated to
14 disclose whether an applicant for a sworn employee position:

15 (i) Has committed or, based on credible sources, has been accused
16 of committing an act of domestic violence;

17 (ii) Is currently being investigated for an allegation of child
18 abuse or neglect or has previously been investigated for founded
19 allegations of child abuse or neglect; or

20 (iii) Is currently or has previously been subject to any order
21 under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any
22 equivalent order issued by another state or tribal court;

23 (b) Provide for the mandatory, immediate response to acts or
24 allegations of domestic violence committed or allegedly committed by a
25 sworn employee of an agency;

26 (c) Provide to a sworn employee, upon the request of the sworn
27 employee or when the sworn employee has been alleged to have committed
28 an act of domestic violence, information on programs under RCW
29 26.50.150;

30 (d) Provide for the mandatory, immediate reporting by employees
31 when an employee becomes aware of an allegation of domestic violence
32 committed or allegedly committed by a sworn employee of the agency
33 employing the sworn employee;

34 (e) Provide procedures to address reporting by an employee who is
35 the victim of domestic violence committed or allegedly committed by a
36 sworn employee of an agency;

37 (f) Provide for the mandatory, immediate self-reporting by a sworn
38 employee to his or her employing agency when an agency in any

1 jurisdiction has responded to a domestic violence call in which the
2 sworn employee committed or allegedly committed an act of domestic
3 violence;

4 (g) Provide for the mandatory, immediate self-reporting by a sworn
5 employee to his or her employing agency if the employee is currently
6 being investigated for an allegation of child abuse or neglect or has
7 previously been investigated for founded allegations of child abuse or
8 neglect, or is currently or has previously been subject to any order
9 under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any
10 equivalent order issued by another state or tribal court;

11 (h) Provide for the performance of prompt separate and impartial
12 administrative and criminal investigations of acts or allegations of
13 domestic violence committed or allegedly committed by a sworn employee
14 of an agency;

15 (i) Provide for appropriate action to be taken during an
16 administrative or criminal investigation of acts or allegations of
17 domestic violence committed or allegedly committed by a sworn employee
18 of an agency. The policy shall provide procedures to address, in a
19 manner consistent with applicable law and the agency's ability to
20 maintain public safety within its jurisdiction, whether to relieve the
21 sworn employee of agency-issued weapons and other agency-issued
22 property and whether to suspend the sworn employee's power of arrest or
23 other police powers pending resolution of any investigation;

24 (j) Provide for prompt and appropriate discipline or sanctions
25 when, after an agency investigation, it is determined that a sworn
26 employee has committed an act of domestic violence;

27 (k) Provide that, when there has been an allegation of domestic
28 violence committed or allegedly committed by a sworn employee, the
29 agency immediately make available to the alleged victim the following
30 information:

31 (i) The agency's written policy on domestic violence committed or
32 allegedly committed by sworn employees;

33 (ii) Information, including but not limited to contact information,
34 about public and private nonprofit domestic violence advocates and
35 services; and

36 (iii) Information regarding relevant confidentiality policies
37 related to the victim's information;

1 (l) Provide procedures for the timely response, consistent with
2 chapters ((42.17)) 42.30 and 10.97 RCW, to an alleged victim's
3 inquiries into the status of the administrative investigation and the
4 procedures the agency will follow in an investigation of domestic
5 violence committed or allegedly committed by a sworn employee;

6 (m) Provide procedures requiring an agency to immediately notify
7 the employing agency of a sworn employee when the notifying agency
8 becomes aware of acts or allegations of domestic violence committed or
9 allegedly committed by the sworn employee within the jurisdiction of
10 the notifying agency; and

11 (n) Provide procedures for agencies to access and share domestic
12 violence training within their jurisdiction and with other
13 jurisdictions.

14 (4) By June 1, 2005, every agency shall adopt and implement a
15 written policy on domestic violence committed or allegedly committed by
16 sworn employees of the agency that meet the minimum standards specified
17 in this section. In lieu of developing its own policy, the agency may
18 adopt the model policy developed by the association under this section.
19 In developing its own policy, or before adopting the model policy, the
20 agency shall consult public and private nonprofit domestic violence
21 advocates and any other organizations and professions the agency finds
22 appropriate.

23 (5)(a) Except as provided in this section, not later than June 30,
24 2006, every sworn employee of an agency shall be trained by the agency
25 on the agency's policy required under this section.

26 (b) Sworn employees hired by an agency on or after March 1, 2006,
27 shall, within six months of beginning employment, be trained by the
28 agency on the agency's policy required under this section.

29 (6)(a) By June 1, 2005, every agency shall provide a copy of its
30 policy developed under this section to the association and shall
31 provide a statement notifying the association of whether the agency has
32 complied with the training required under this section. The copy and
33 statement shall be provided in electronic format unless the agency is
34 unable to do so. The agency shall provide the association with any
35 revisions to the policy upon adoption.

36 (b) The association shall maintain a copy of each agency's policy
37 and shall provide to the governor and legislature not later than

1 January 1, 2006, a list of those agencies that have not developed and
2 submitted policies and those agencies that have not stated their
3 compliance with the training required under this section.

4 (c) The association shall, upon request and within its resources,
5 provide technical assistance to agencies in developing their policies.

6 **Sec. 210.** RCW 13.40.570 and 1999 c 72 s 1 are each amended to read
7 as follows:

8 (1) When the secretary has reasonable cause to believe that sexual
9 intercourse or sexual contact between an employee and an offender has
10 occurred, notwithstanding any rule adopted under chapter 41.06 RCW the
11 secretary shall immediately suspend the employee.

12 (2) The secretary shall immediately institute proceedings to
13 terminate the employment of any person:

14 (a) Who is found by the department, based on a preponderance of the
15 evidence, to have had sexual intercourse or sexual contact with the
16 offender; or

17 (b) Upon a guilty plea or conviction for any crime specified in
18 chapter 9A.44 RCW when the victim was an offender.

19 (3) When the secretary has reasonable cause to believe that sexual
20 intercourse or sexual contact between the employee of a contractor and
21 an offender has occurred, the secretary shall require the employee of
22 a contractor to be immediately removed from any employment position
23 which would permit the employee to have any access to any offender.

24 (4) The secretary shall disqualify for employment with a contractor
25 in any position with access to an offender, any person:

26 (a) Who is found by the department, based on a preponderance of the
27 evidence, to have had sexual intercourse or sexual contact with the
28 offender; or

29 (b) Upon a guilty plea or conviction for any crime specified in
30 chapter 9A.44 RCW when the victim was an offender.

31 (5) The secretary, when considering the renewal of a contract with
32 a contractor who has taken action under subsection (3) or (4) of this
33 section, shall require the contractor to demonstrate that there has
34 been significant progress made in reducing the likelihood that any of
35 its employees will have sexual intercourse or sexual contact with an
36 offender. The secretary shall examine whether the contractor has taken
37 steps to improve hiring, training, and monitoring practices and whether

1 the employee remains with the contractor. The secretary shall not
2 renew a contract unless he or she determines that significant progress
3 has been made.

4 (6)(a) For the purposes of RCW 50.20.060, a person terminated under
5 this section shall be considered discharged for misconduct.

6 (b)(i) The department may, within its discretion or upon request of
7 any member of the public, release information to an individual or to
8 the public regarding any person or contract terminated under this
9 section.

10 (ii) An appointed or elected public official, public employee, or
11 public agency as defined in RCW 4.24.470 is immune from civil liability
12 for damages for any discretionary release of relevant and necessary
13 information, unless it is shown that the official, employee, or agency
14 acted with gross negligence or in bad faith. The immunity provided
15 under this section applies to the release of relevant and necessary
16 information to other public officials, public employees, or public
17 agencies, and to the public.

18 (iii) Except as provided in chapter (~~42.17~~) 42.30 RCW, or
19 elsewhere, nothing in this section shall impose any liability upon a
20 public official, public employee, or public agency for failing to
21 release information authorized under this section. Nothing in this
22 section implies that information regarding persons designated in
23 subsection (2) of this section is confidential except as may otherwise
24 be provided by law.

25 (7) The department shall adopt rules to implement this section.
26 The rules shall reflect the legislative intent that this section
27 prohibits individuals who are employed by the department or a
28 contractor of the department from having sexual intercourse or sexual
29 contact with offenders. The rules shall also reflect the legislative
30 intent that when a person is employed by the department or a contractor
31 of the department, and has sexual intercourse or sexual contact with an
32 offender against the employed person's will, the termination provisions
33 of this section shall not be invoked.

34 (8) As used in this section:

35 (a) "Contractor" includes all subcontractors of a contractor;

36 (b) "Offender" means a person under the jurisdiction or supervision
37 of the department; and

1 (c) "Sexual intercourse" and "sexual contact" have the meanings
2 provided in RCW 9A.44.010.

3 **Sec. 211.** RCW 15.19.080 and 1998 c 154 s 28 are each amended to
4 read as follows:

5 The department shall not disclose information obtained under this
6 chapter regarding the purchases, sales, or production of an individual
7 American ginseng grower or dealer, except for providing reports to the
8 United States fish and wildlife service. This information is exempt
9 from public disclosure required by chapter ((42.17)) 42.30 RCW.

10 **Sec. 212.** RCW 15.26.295 and 2002 c 313 s 67 are each amended to
11 read as follows:

12 (1) Under ((RCW 42.17.31907)) section 418 of this act, certain
13 agricultural business records, commission records, and department of
14 agriculture records relating to the commission and producers of
15 agricultural commodities are exempt from public disclosure.

16 (2) Financial and commercial information and records submitted to
17 either the department or the commission for the purpose of
18 administering this chapter may be shared between the department and the
19 commission. They may also be used, if required, in any suit or
20 administrative hearing involving any provision of this chapter or a
21 marketing order.

22 (3) This chapter does not prohibit:

23 (a) The issuance of general statements based upon the reports of
24 persons subject to this chapter as long as the statements do not
25 identify the information furnished by any person; or

26 (b) The publication by the director or the commission of the name
27 of any person violating this chapter and a statement of the manner of
28 the violation by that person.

29 **Sec. 213.** RCW 15.28.315 and 2002 c 313 s 68 are each amended to
30 read as follows:

31 (1) Under ((RCW 42.17.31907)) section 418 of this act, certain
32 agricultural business records, commission records, and department of
33 agriculture records relating to the commission and producers of
34 agricultural commodities are exempt from public disclosure.

1 (2) Financial and commercial information and records submitted to
2 either the department or the commission for the purpose of
3 administering this chapter may be shared between the department and the
4 commission. They may also be used, if required, in any suit or
5 administrative hearing involving any provision of this chapter or a
6 marketing order.

7 (3) This chapter does not prohibit:

8 (a) The issuance of general statements based upon the reports of
9 persons subject to this chapter as long as the statements do not
10 identify the information furnished by any person; or

11 (b) The publication by the director or the commission of the name
12 of any person violating this chapter and a statement of the manner of
13 the violation by that person.

14 **Sec. 214.** RCW 15.44.185 and 2002 c 313 s 69 are each amended to
15 read as follows:

16 (1) Under ((~~RCW 42.17.31907~~)) section 418 of this act, certain
17 agricultural business records, commission records, and department of
18 agriculture records relating to the commission and producers of
19 agricultural commodities are exempt from public disclosure.

20 (2) Financial and commercial information and records submitted to
21 either the department or the commission for the purpose of
22 administering this chapter may be shared between the department and the
23 commission. They may also be used, if required, in any suit or
24 administrative hearing involving any provision of this chapter or a
25 marketing order.

26 (3) This chapter does not prohibit:

27 (a) The issuance of general statements based upon the reports of
28 persons subject to this chapter as long as the statements do not
29 identify the information furnished by any person; or

30 (b) The publication by the director or the commission of the name
31 of any person violating this chapter and a statement of the manner of
32 the violation by that person.

33 **Sec. 215.** RCW 15.58.060 and 1989 c 380 s 4 are each amended to
34 read as follows:

35 (1) The applicant for registration shall file a statement with the
36 department which shall include:

1 (a) The name and address of the applicant and the name and address
2 of the person whose name will appear on the label, if other than the
3 applicant's;

4 (b) The name of the pesticide;

5 (c) The complete formula of the pesticide, including the active and
6 inert ingredients: PROVIDED, That confidential business information of
7 a proprietary nature is not made available to any other person and is
8 exempt from disclosure as a public record, as provided by RCW 42.17.260
9 (as recodified by this act);

10 (d) Other necessary information required for completion of the
11 department's application for registration form; and

12 (e) A complete copy of the labeling accompanying the pesticide and
13 a statement of all claims to be made for it, including the directions
14 and precautions for use.

15 (2) The director may require a full description of the tests made
16 and the results thereof upon which the claims are based.

17 (3) The director may prescribe other necessary information by rule.

18 **Sec. 216.** RCW 15.65.203 and 2002 c 313 s 18 are each amended to
19 read as follows:

20 (1) Pursuant to ((~~RCW 42.17.31907~~)) section 418 of this act,
21 certain agricultural business records, commodity board records, and
22 department of agriculture records relating to commodity boards and
23 producers of agricultural commodities are exempt from public
24 disclosure.

25 (2) Financial and commercial information and records submitted to
26 either the department or a commodity board for the purpose of
27 administering this chapter or a marketing order or agreement may be
28 shared between the department and the applicable commodity board. They
29 may also be used, if required, in any suit or administrative hearing
30 involving this chapter or a marketing order or agreement.

31 (3) This chapter does not prohibit:

32 (a) The issuance of general statements based upon the reports of a
33 number of persons subject to any marketing order or agreement as long
34 as the statements do not identify the information furnished by any
35 person; or

36 (b) The publication by the director or a commodity board of the

1 name of any person violating any marketing order or agreement and a
2 statement of the manner of the violation by that person.

3 **Sec. 217.** RCW 15.66.105 and 2002 c 313 s 50 are each amended to
4 read as follows:

5 (1) Pursuant to ((~~RCW 42.17.31907~~)) section 418 of this act,
6 certain agricultural business records, commodity commission records,
7 and department of agriculture records relating to commodity commissions
8 and producers of agricultural commodities are exempt from public
9 disclosure.

10 (2) Financial and commercial information and records submitted to
11 either the department or a commodity commission for the purpose of
12 administering this chapter or a marketing order may be shared between
13 the department and the applicable commodity commission. They may also
14 be used, if required, in any suit or administrative hearing involving
15 any provision of this chapter or a marketing order.

16 (3) This chapter does not prohibit:
17 (a) The issuance of general statements based upon the reports of a
18 number of persons subject to any marketing order as long as the
19 statements do not identify the information furnished by any person; or
20 (b) The publication by the director or a commodity commission of
21 the name of any person violating any marketing order and a statement of
22 the manner of the violation by that person.

23 **Sec. 218.** RCW 15.86.110 and 1992 c 71 s 11 are each amended to
24 read as follows:

25 (1) Except as provided in subsection (2) of this section, the
26 department shall keep confidential any business related information
27 obtained under this chapter concerning an entity certified under this
28 chapter or an applicant for such certification and such information
29 shall be exempt from public inspection and copying under chapter
30 ((~~42.17~~)) 42.30 RCW.

31 (2) Applications for certification under this chapter and
32 laboratory analyses pertaining to that certification shall be available
33 for public inspection and copying.

34 **Sec. 219.** RCW 15.88.170 and 2002 c 313 s 70 are each amended to
35 read as follows:

1 (1) Under ((~~RCW 42.17.31907~~)) section 418 of this act, certain
2 agricultural business records, commission records, and department of
3 agriculture records relating to the commission and producers of
4 agricultural commodities are exempt from public disclosure.

5 (2) Financial and commercial information and records submitted to
6 either the department or the commission for the purpose of
7 administering this chapter may be shared between the department and the
8 commission. They may also be used, if required, in any suit or
9 administrative hearing involving any provision of this chapter or a
10 marketing order.

11 (3) This chapter does not prohibit:

12 (a) The issuance of general statements based upon the reports of
13 persons subject to this chapter as long as the statements do not
14 identify the information furnished by any person; or

15 (b) The publication by the director or the commission of the name
16 of any person violating this chapter and a statement of the manner of
17 the violation by that person.

18 **Sec. 220.** RCW 16.67.180 and 2002 c 313 s 71 are each amended to
19 read as follows:

20 (1) Under ((~~RCW 42.17.31907~~)) section 418 of this act, certain
21 agricultural business records, commission records, and department of
22 agriculture records relating to the commission and producers of
23 agricultural commodities are exempt from public disclosure.

24 (2) Financial and commercial information and records submitted to
25 either the department or the commission for the purpose of
26 administering this chapter may be shared between the department and the
27 commission. They may also be used, if required, in any suit or
28 administrative hearing involving any provision of this chapter or a
29 marketing order.

30 (3) This chapter does not prohibit:

31 (a) The issuance of general statements based upon the reports of
32 persons subject to this chapter as long as the statements do not
33 identify the information furnished by any person; or

34 (b) The publication by the director or the commission of the name
35 of any person violating this chapter and a statement of the manner of
36 the violation by that person.

1 **Sec. 221.** RCW 18.27.120 and 1983 1st ex.s. c 2 s 20 are each
2 amended to read as follows:

3 (1) The department shall compile a list of all contractors
4 registered under this chapter and update the list at least bimonthly.
5 The list shall be considered as public record information and shall be
6 available to the public upon request: PROVIDED, That the department
7 may charge a reasonable fee under RCW 42.17.300 (as recodified by this
8 act).

9 (2) The department shall inform any person, firm, or corporation,
10 if a contractor is registered, and if a contractor is bonded or
11 insured, without charge except for a reasonable fee under RCW 42.17.300
12 (as recodified by this act) for copies made.

13 **Sec. 222.** RCW 18.32.040 and 1994 sp.s. c 9 s 211 are each amended
14 to read as follows:

15 The commission shall require that every applicant for a license to
16 practice dentistry shall:

17 (1) Present satisfactory evidence of graduation from a dental
18 college, school, or dental department of an institution approved by the
19 commission;

20 (2) Submit, for the files of the commission, a recent picture duly
21 identified and attested; and

22 (3) Pass an examination prepared or approved by and administered
23 under the direction of the commission. The dentistry licensing
24 examination shall consist of practical and written tests upon such
25 subjects and of such scope as the commission determines. The
26 commission may accept, in lieu of all or part of a written examination,
27 a certificate granted by a national or regional testing organization
28 approved by the commission. The commission shall set the standards for
29 passing the examination. The secretary shall keep on file the
30 examination papers and records of examination for at least one year.
31 This file shall be open for inspection by the applicant or the
32 applicant's agent unless the disclosure will compromise the examination
33 process as determined by the commission or is exempted from disclosure
34 under ((~~RCW 42.17.250 through 42.17.340~~)) chapter 42.30 RCW.

35 **Sec. 223.** RCW 18.39.450 and 1994 c 17 s 7 are each amended to read
36 as follows:

1 (1) In the event of a finding of unprofessional conduct, the board
2 shall prepare and serve findings of fact and an order as provided in
3 chapter 34.05 RCW and the board shall notify the public, which notice
4 must include press releases to appropriate local news media and the
5 major news wire services. If the license, registration, endorsement,
6 or permit holder or applicant is found to have not committed
7 unprofessional conduct, the board shall immediately prepare and serve
8 findings of fact and an order of dismissal of the charges. The board
9 shall retain the findings of fact and order as a permanent record.

10 (2) The board shall report the issuance of statements of charges
11 and final orders in cases processed by the board to:

12 (a) The person or agency who brought to the board's attention
13 information that resulted in the initiation of the case;

14 (b) Appropriate organizations, public or private, that serve the
15 professions; and

16 (c) Counterpart licensing boards in other states or associations of
17 state licensing boards.

18 (3) This section does not require the reporting of information that
19 is exempt from public disclosure under chapter ((42.17)) 42.30 RCW.

20 **Sec. 224.** RCW 18.44.031 and 1999 c 30 s 3 are each amended to read
21 as follows:

22 An application for an escrow agent license shall be in writing in
23 such form as is prescribed by the director, and shall be verified on
24 oath by the applicant. An application for an escrow agent license
25 shall include fingerprints for all officers, directors, owners,
26 partners, and controlling persons, and, unless waived by the director,
27 the following:

28 (1) The applicant's form of business organization and place of
29 organization;

30 (2) If the applicant is a corporation or limited liability company,
31 the address of its physical location, a list of officers, controlling
32 persons, and directors of such corporation or company and their
33 residential addresses, telephone numbers, and other identifying
34 information as the director may determine by rule. If the applicant is
35 a sole proprietorship or partnership, the address of its business
36 location, a list of owners, partners, or controlling persons and their
37 residential addresses, telephone numbers, and other identifying

1 information as the director may determine by rule. Any information in
2 the application regarding the personal residential address or telephone
3 number of any officer, director, partner, owner, controlling person, or
4 employee is exempt from the public records disclosure requirements of
5 chapter ((42.17)) 42.30 RCW;

6 (3) In the event the applicant is doing business under an assumed
7 name, a copy of the master business license with the registered trade
8 name shown;

9 (4) The qualifications and business history of the applicant and
10 all of its officers, directors, owners, partners, and controlling
11 persons;

12 (5) A personal credit report from a recognized credit reporting
13 bureau satisfactory to the director on all officers, directors, owners,
14 partners, and controlling persons of the applicant;

15 (6) Whether any of the officers, directors, owners, partners, or
16 controlling persons have been convicted of any crime within the
17 preceding ten years which relates directly to the business or duties of
18 escrow agents, or have suffered a judgment within the preceding five
19 years in any civil action involving fraud, misrepresentation, any
20 unfair or deceptive act or practice, or conversion;

21 (7) The identity of the licensed escrow officer designated by the
22 escrow agent as the designated escrow officer responsible for
23 supervising the agent's escrow activity;

24 (8) Evidence of compliance with the bonding and insurance
25 requirements of RCW 18.44.201; and

26 (9) Any other information the director may require by rule. The
27 director may share any information contained within a license
28 application, including fingerprints, with the federal bureau of
29 investigation and other regulatory or law enforcement agencies.

30 **Sec. 225.** RCW 18.51.290 and 1980 c 184 s 4 are each amended to
31 read as follows:

32 Any writing received, owned, used, or retained by the department in
33 connection with the provisions of this chapter is a public record and,
34 as such, is open to public inspection. Copies of such records provided
35 for public inspection shall comply with RCW 42.17.260(1) (as recodified
36 by this act). The names of duly authorized officers, employees, or
37 agents of the department shall be included.

1 **Sec. 226.** RCW 18.64.420 and 1991 c 87 s 12 are each amended to
2 read as follows:

3 All records, reports, and information obtained by the department
4 from or on behalf of an entity licensed under chapter 48.20, 48.21,
5 48.44, or 48.46 RCW shall be confidential and exempt from inspection
6 and copying under chapter ((42.17)) 42.30 RCW. Nothing in this section
7 restricts the investigation or the proceedings of the board or the
8 department so long as the board and the department comply with the
9 provisions of chapter ((42.17)) 42.30 RCW. Nothing in this section or
10 in chapter ((42.17)) 42.30 RCW shall restrict the board or the
11 department from complying with any mandatory reporting requirements
12 that exist or may exist under federal law, nor shall the board or the
13 department be restricted from providing to any person the name of any
14 nonresident pharmacy that is or has been licensed or disciplined under
15 RCW 18.64.350 through 18.64.400.

16 **Sec. 227.** RCW 18.71.0195 and 1998 c 132 s 2 are each amended to
17 read as follows:

18 (1) The contents of any report filed under RCW 18.130.070 shall be
19 confidential and exempt from public disclosure pursuant to chapter
20 ((42.17)) 42.30 RCW, except that it may be reviewed (a) by the licensee
21 involved or his or her counsel or authorized representative who may
22 submit any additional exculpatory or explanatory statements or other
23 information, which statements or other information shall be included in
24 the file, or (b) by a representative of the commission, or investigator
25 thereof, who has been assigned to review the activities of a licensed
26 physician.

27 Upon a determination that a report is without merit, the
28 commission's records may be purged of information relating to the
29 report.

30 (2) Every individual, medical association, medical society,
31 hospital, medical service bureau, health insurance carrier or agent,
32 professional liability insurance carrier, professional standards review
33 organization, agency of the federal, state, or local government, or the
34 entity established by RCW 18.71.300 and its officers, agents, and
35 employees are immune from civil liability, whether direct or
36 derivative, for providing information to the commission under RCW

1 18.130.070, or for which an individual health care provider has
2 immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260.

3 **Sec. 228.** RCW 18.71.340 and 1998 c 132 s 7 are each amended to
4 read as follows:

5 All entity records are not subject to disclosure pursuant to
6 chapter ((42.17)) 42.30 RCW.

7 **Sec. 229.** RCW 18.106.320 and 2002 c 82 s 5 are each amended to
8 read as follows:

9 (1) Contractors shall accurately verify and attest to the trainee
10 hours worked by plumbing trainees on behalf of the contractor and that
11 all training hours were under the supervision of a certified plumber
12 and within the proper ratio, and shall provide the supervising
13 plumbers' names and certificate numbers. However, contractors are not
14 required to identify which hours a trainee works with a specific
15 certified plumber.

16 (2) The department may audit the records of a contractor that has
17 verified the hours of experience submitted by a plumbing trainee to the
18 department under RCW 18.106.030 in the following circumstances:
19 Excessive hours were reported; hours were reported outside the normal
20 course of the contractor's business; or for other similar circumstances
21 in which the department demonstrates a likelihood of excessive or
22 improper hours being reported. The department shall limit the audit to
23 records necessary to verify hours. The department shall adopt rules
24 implementing audit procedures. Information obtained from a contractor
25 under the provisions of this section is confidential and is not open to
26 public inspection under chapter ((42.17)) 42.30 RCW.

27 (3) Violation of this section by a contractor is an infraction.

28 **Sec. 230.** RCW 18.130.085 and 1993 c 360 s 1 are each amended to
29 read as follows:

30 If the department communicates in writing to a complainant, or his
31 or her representative, regarding his or her complaint, such
32 communication shall not include the address or telephone number of the
33 health care provider against whom he or she has complained. The
34 department shall inform all applicants for a health care provider

1 license of the provisions of this section and (~~RCW 42.17.310~~) chapter
2 42.30 RCW regarding the release of address and telephone information.

3 **Sec. 231.** RCW 18.130.095 and 1997 c 270 s 1 are each amended to
4 read as follows:

5 (1)(a) The secretary, in consultation with the disciplining
6 authorities, shall develop uniform procedural rules to respond to
7 public inquiries concerning complaints and their disposition, active
8 investigations, statement of charges, findings of fact, and final
9 orders involving a licensee, applicant, or unlicensed person. The
10 uniform procedural rules adopted under this subsection apply to all
11 adjudicative proceedings conducted under this chapter and shall include
12 provisions for establishing time periods for initial assessment,
13 investigation, charging, discovery, settlement, and adjudication of
14 complaints, and shall include enforcement provisions for violations of
15 the specific time periods by the department, the disciplining
16 authority, and the respondent. A licensee must be notified upon
17 receipt of a complaint, except when the notification would impede an
18 effective investigation. At the earliest point of time the licensee
19 must be allowed to submit a written statement about that complaint,
20 which statement must be included in the file. Complaints filed after
21 July 27, 1997, are exempt from public disclosure under chapter
22 (~~42.17~~) 42.30 RCW until the complaint has been initially assessed and
23 determined to warrant an investigation by the disciplining authority.
24 Complaints determined not to warrant an investigation by the
25 disciplining authority are no longer considered complaints, but must
26 remain in the records and tracking system of the department.
27 Information about complaints that did not warrant an investigation,
28 including the existence of the complaint, may be released only upon
29 receipt of a written public disclosure request or pursuant to an
30 interagency agreement as provided in (b) of this subsection.
31 Complaints determined to warrant no cause for action after
32 investigation are subject to public disclosure, must include an
33 explanation of the determination to close the complaint, and must
34 remain in the records and tracking system of the department.

35 (b) The secretary, on behalf of the disciplining authorities, shall
36 enter into interagency agreements for the exchange of records, which
37 may include complaints filed but not yet assessed, with other state

1 agencies if access to the records will assist those agencies in meeting
2 their federal or state statutory responsibilities. Records obtained by
3 state agencies under the interagency agreements are subject to the
4 limitations on disclosure contained in (a) of this subsection.

5 (2) The uniform procedures for conducting investigations shall
6 provide that prior to taking a written statement:

7 (a) For violation of this chapter, the investigator shall inform
8 such person, in writing of: (i) The nature of the complaint; (ii) that
9 the person may consult with legal counsel at his or her expense prior
10 to making a statement; and (iii) that any statement that the person
11 makes may be used in an adjudicative proceeding conducted under this
12 chapter; and

13 (b) From a witness or potential witness in an investigation under
14 this chapter, the investigator shall inform the person, in writing,
15 that the statement may be released to the licensee, applicant, or
16 unlicensed person under investigation if a statement of charges is
17 issued.

18 (3) Only upon the authorization of a disciplining authority
19 identified in RCW 18.130.040(2)(b), the secretary, or his or her
20 designee, may serve as the presiding officer for any disciplinary
21 proceedings of the disciplining authority authorized under this
22 chapter. Except as provided in RCW 18.130.050(8), the presiding
23 officer shall not vote on or make any final decision. All functions
24 performed by the presiding officer shall be subject to chapter 34.05
25 RCW. The secretary, in consultation with the disciplining authorities,
26 shall adopt procedures for implementing this subsection.

27 (4) The uniform procedural rules shall be adopted by all
28 disciplining authorities listed in RCW 18.130.040(2), and shall be used
29 for all adjudicative proceedings conducted under this chapter, as
30 defined by chapter 34.05 RCW. The uniform procedural rules shall
31 address the use of a presiding officer authorized in subsection (3) of
32 this section to determine and issue decisions on all legal issues and
33 motions arising during adjudicative proceedings.

34 **Sec. 232.** RCW 18.130.110 and 1989 c 175 s 70 are each amended to
35 read as follows:

36 (1) In the event of a finding of unprofessional conduct, the
37 disciplining authority shall prepare and serve findings of fact and an

1 order as provided in chapter 34.05 RCW, the Administrative Procedure
2 Act. If the license holder or applicant is found to have not committed
3 unprofessional conduct, the disciplining authority shall forthwith
4 prepare and serve findings of fact and an order of dismissal of the
5 charges, including public exoneration of the licensee or applicant.
6 The findings of fact and order shall be retained by the disciplining
7 authority as a permanent record.

8 (2) The disciplining authority shall report the issuance of
9 statements of charges and final orders in cases processed by the
10 disciplining authority to:

11 (a) The person or agency who brought to the disciplining
12 authority's attention information which resulted in the initiation of
13 the case;

14 (b) Appropriate organizations, public or private, which serve the
15 professions;

16 (c) The public. Notification of the public shall include press
17 releases to appropriate local news media and the major news wire
18 services; and

19 (d) Counterpart licensing boards in other states, or associations
20 of state licensing boards.

21 (3) This section shall not be construed to require the reporting of
22 any information which is exempt from public disclosure under chapter
23 ((42.17)) 42.30 RCW.

24 **Sec. 233.** RCW 18.130.175 and 1998 c 132 s 10 are each amended to
25 read as follows:

26 (1) In lieu of disciplinary action under RCW 18.130.160 and if the
27 disciplining authority determines that the unprofessional conduct may
28 be the result of substance abuse, the disciplining authority may refer
29 the license holder to a voluntary substance abuse monitoring program
30 approved by the disciplining authority.

31 The cost of the treatment shall be the responsibility of the
32 license holder, but the responsibility does not preclude payment by an
33 employer, existing insurance coverage, or other sources. Primary
34 alcoholism or other drug addiction treatment shall be provided by
35 approved treatment programs under RCW 70.96A.020 or by any other
36 provider approved by the entity or the commission. However, nothing
37 shall prohibit the disciplining authority from approving additional

1 services and programs as an adjunct to primary alcoholism or other drug
2 addiction treatment. The disciplining authority may also approve the
3 use of out-of-state programs. Referral of the license holder to the
4 program shall be done only with the consent of the license holder.
5 Referral to the program may also include probationary conditions for a
6 designated period of time. If the license holder does not consent to
7 be referred to the program or does not successfully complete the
8 program, the disciplining authority may take appropriate action under
9 RCW 18.130.160. The secretary shall adopt uniform rules for the
10 evaluation by the disciplinary authority of a relapse or program
11 violation on the part of a license holder in the substance abuse
12 monitoring program. The evaluation shall encourage program
13 participation with additional conditions, in lieu of disciplinary
14 action, when the disciplinary authority determines that the license
15 holder is able to continue to practice with reasonable skill and
16 safety.

17 (2) In addition to approving substance abuse monitoring programs
18 that may receive referrals from the disciplining authority, the
19 disciplining authority may establish by rule requirements for
20 participation of license holders who are not being investigated or
21 monitored by the disciplining authority for substance abuse. License
22 holders voluntarily participating in the approved programs without
23 being referred by the disciplining authority shall not be subject to
24 disciplinary action under RCW 18.130.160 for their substance abuse, and
25 shall not have their participation made known to the disciplining
26 authority, if they meet the requirements of this section and the
27 program in which they are participating.

28 (3) The license holder shall sign a waiver allowing the program to
29 release information to the disciplining authority if the licensee does
30 not comply with the requirements of this section or is unable to
31 practice with reasonable skill or safety. The substance abuse program
32 shall report to the disciplining authority any license holder who fails
33 to comply with the requirements of this section or the program or who,
34 in the opinion of the program, is unable to practice with reasonable
35 skill or safety. License holders shall report to the disciplining
36 authority if they fail to comply with this section or do not complete
37 the program's requirements. License holders may, upon the agreement of

1 the program and disciplining authority, reenter the program if they
2 have previously failed to comply with this section.

3 (4) The treatment and pretreatment records of license holders
4 referred to or voluntarily participating in approved programs shall be
5 confidential, shall be exempt from (~~RCW 42.17.250 through 42.17.450~~)
6 chapter 42.30 RCW, and shall not be subject to discovery by subpoena or
7 admissible as evidence except for monitoring records reported to the
8 disciplining authority for cause as defined in subsection (3) of this
9 section. Monitoring records relating to license holders referred to
10 the program by the disciplining authority or relating to license
11 holders reported to the disciplining authority by the program for
12 cause, shall be released to the disciplining authority at the request
13 of the disciplining authority. Records held by the disciplining
14 authority under this section shall be exempt from (~~RCW 42.17.250
15 through 42.17.450~~) chapter 42.30 RCW and shall not be subject to
16 discovery by subpoena except by the license holder.

17 (5) "Substance abuse," as used in this section, means the
18 impairment, as determined by the disciplining authority, of a license
19 holder's professional services by an addiction to, a dependency on, or
20 the use of alcohol, legend drugs, or controlled substances.

21 (6) This section does not affect an employer's right or ability to
22 make employment-related decisions regarding a license holder. This
23 section does not restrict the authority of the disciplining authority
24 to take disciplinary action for any other unprofessional conduct.

25 (7) A person who, in good faith, reports information or takes
26 action in connection with this section is immune from civil liability
27 for reporting information or taking the action.

28 (a) The immunity from civil liability provided by this section
29 shall be liberally construed to accomplish the purposes of this section
30 and the persons entitled to immunity shall include:

- 31 (i) An approved monitoring treatment program;
- 32 (ii) The professional association operating the program;
- 33 (iii) Members, employees, or agents of the program or association;
- 34 (iv) Persons reporting a license holder as being possibly impaired
35 or providing information about the license holder's impairment; and
- 36 (v) Professionals supervising or monitoring the course of the
37 impaired license holder's treatment or rehabilitation.

1 (b) The courts are strongly encouraged to impose sanctions on
2 clients and their attorneys whose allegations under this subsection are
3 not made in good faith and are without either reasonable objective,
4 substantive grounds, or both.

5 (c) The immunity provided in this section is in addition to any
6 other immunity provided by law.

7 **Sec. 234.** RCW 19.28.171 and 2001 c 211 s 11 are each amended to
8 read as follows:

9 The department may audit the records of an electrical contractor
10 that has verified the hours of experience submitted by an electrical
11 trainee to the department under RCW 19.28.161(2) in the following
12 circumstances: Excessive hours were reported; hours reported outside
13 the normal course of the contractor's business; the type of hours
14 reported do not reasonably match the type of permits purchased; or for
15 other similar circumstances in which the department demonstrates a
16 likelihood of excessive hours being reported. The department shall
17 limit the audit to records necessary to verify hours. The department
18 shall adopt rules implementing audit procedures. Information obtained
19 from an electrical contractor under the provisions of this section is
20 confidential and is not open to public inspection under chapter
21 ((42.17)) 42.30 RCW.

22 **Sec. 235.** RCW 19.34.240 and 1997 c 27 s 11 are each amended to
23 read as follows:

24 (1) By accepting a certificate issued by a licensed certification
25 authority, the subscriber identified in the certificate assumes a duty
26 to exercise reasonable care to retain control of the private key and
27 prevent its disclosure to a person not authorized to create the
28 subscriber's digital signature. The subscriber is released from this
29 duty if the certificate expires or is revoked.

30 (2) A private key is the personal property of the subscriber who
31 rightfully holds it.

32 (3) A private key in the possession of a state agency or local
33 agency, as those terms are defined by RCW 42.17.020, is exempt from
34 public inspection and copying under chapter ((42.17)) 42.30 RCW.

1 **Sec. 236.** RCW 19.80.065 and 2000 c 171 s 59 are each amended to
2 read as follows:

3 RCW 42.17.260(9) (as recodified by this act) does not apply to
4 registrations made under this chapter.

5 **Sec. 237.** RCW 19.230.190 and 2003 c 287 s 21 are each amended to
6 read as follows:

7 (1) Except as otherwise provided in subsection (2) of this section,
8 all information or reports obtained by the director from an applicant,
9 licensee, or authorized delegate and all information contained in, or
10 related to, examination, investigation, operating, or condition reports
11 prepared by, on behalf of, or for the use of the director, or financial
12 statements, balance sheets, or authorized delegate information, are
13 confidential and are not subject to disclosure under chapter ((42.17))
14 42.30 RCW.

15 (2) The director may disclose information not otherwise subject to
16 disclosure under subsection (1) of this section to representatives of
17 state or federal agencies who agree in writing to maintain the
18 confidentiality of the information; or if the director finds that the
19 release is reasonably necessary for the protection of the public and in
20 the interests of justice.

21 (3) This section does not prohibit the director from disclosing to
22 the public a list of persons licensed under this chapter or the
23 aggregated financial data concerning those licensees.

24 **Sec. 238.** RCW 21.20.855 and 1988 c 244 s 16 are each amended to
25 read as follows:

26 (1) Examination reports and information obtained by the director or
27 the director's representatives in conducting examinations pursuant to
28 RCW 21.20.700 shall not be subject to public disclosure under chapter
29 ((42.17)) 42.30 RCW.

30 (2) In any civil action in which the reports are sought to be
31 discovered or used as evidence, any party may, upon notice to the
32 director, petition the court for an in camera review of the report.
33 The court may permit discovery and introduction of only those portions
34 of the report which are relevant and otherwise unobtainable by the
35 requesting party. This subsection shall not apply to an action brought
36 or defended by the director.

1 **Sec. 239.** RCW 21.30.170 and 1986 c 14 s 18 are each amended to
2 read as follows:

3 (1) All information collected, assembled, or maintained by the
4 director under this chapter is public information and is available for
5 the examination of the public as provided by chapter ((42.17)) 42.30
6 RCW except the following:

7 (a) Information obtained in private investigations pursuant to RCW
8 21.30.100 or 21.30.110;

9 (b) Information exempt from public disclosure under chapter
10 ((42.17)) 42.30 RCW; and

11 (c) Information obtained from federal or state agencies which may
12 not be disclosed under federal or state law.

13 (2) The director in the director's discretion may disclose any
14 information made confidential under subsection (1)(a) of this section
15 to persons identified in RCW 21.30.180.

16 (3) No provision of this chapter either creates or derogates from
17 any privilege which exists at common law, by statute, or otherwise when
18 any documentary or other evidence is sought under subpoena directed to
19 the director or any employee of the director.

20 **Sec. 240.** RCW 22.09.640 and 1979 ex.s. c 238 s 25 are each amended
21 to read as follows:

22 Notwithstanding the provisions of chapter ((42.17)) 42.30 RCW, the
23 department shall publish annually and distribute to interested parties,
24 a list of licensed warehouses showing the location, county, capacity,
25 and bond coverage for each company.

26 **Sec. 241.** RCW 26.12.170 and 1994 c 267 s 3 are each amended to
27 read as follows:

28 To facilitate and promote the purposes of this chapter, family
29 court judges and court commissioners may order or recommend family
30 court services, parenting seminars, drug and alcohol abuse evaluations
31 and monitoring of the parties through public or private treatment
32 services, other treatment services, the aid of physicians,
33 psychiatrists, other specialists, or other services or may recommend
34 the aid of the pastor or director of any religious denomination to
35 which the parties may belong.

1 If the court has reasonable cause to believe that a child of the
2 parties has suffered abuse or neglect it may file a report with the
3 proper law enforcement agency or the department of social and health
4 services as provided in RCW 26.44.040. Upon receipt of such a report
5 the law enforcement agency or the department of social and health
6 services will conduct an investigation into the cause and extent of the
7 abuse or neglect. The findings of the investigation may be made
8 available to the court if ordered by the court as provided in RCW
9 42.17.310(~~(+3)~~)(2) (as recodified by this act). The findings shall be
10 restricted to the issue of abuse and neglect and shall not be
11 considered custody investigations.

12 **Sec. 242.** RCW 26.23.120 and 1998 c 160 s 4 are each amended to
13 read as follows:

14 (1) Any information or records concerning individuals who owe a
15 support obligation or for whom support enforcement services are being
16 provided which are obtained or maintained by the Washington state
17 support registry, the division of child support, or under chapter 74.20
18 RCW shall be private and confidential and shall only be subject to
19 public disclosure as provided in subsection (2) of this section.

20 (2) The secretary of the department of social and health services
21 may adopt rules:

22 (a) That specify what information is confidential;

23 (b) That specify the individuals or agencies to whom this
24 information and these records may be disclosed;

25 (c) Limiting the purposes for which the information may be
26 disclosed;

27 (d) Establishing procedures to obtain the information or records;
28 or

29 (e) Establishing safeguards necessary to comply with federal law
30 requiring safeguarding of information.

31 (3) The rules adopted under subsection (2) of this section shall
32 provide for disclosure of the information and records, under
33 appropriate circumstances, which shall include, but not be limited to:

34 (a) When authorized or required by federal statute or regulation
35 governing the support enforcement program;

36 (b) To the person the subject of the records or information, unless

1 the information is exempt from disclosure under ((RCW 42.17.310))
2 chapter 42.30 RCW;

3 (c) To government agencies, whether state, local, or federal, and
4 including federally recognized tribes, law enforcement agencies,
5 prosecuting agencies, and the executive branch, if the disclosure is
6 necessary for child support enforcement purposes or required under
7 Title IV-D of the federal social security act;

8 (d) To the parties in a judicial or adjudicative proceeding upon a
9 specific written finding by the presiding officer that the need for the
10 information outweighs any reason for maintaining the privacy and
11 confidentiality of the information or records;

12 (e) To private persons, federally recognized tribes, or
13 organizations if the disclosure is necessary to permit private
14 contracting parties to assist in the management and operation of the
15 department;

16 (f) Disclosure of address and employment information to the parties
17 to an action for purposes relating to a child support order, subject to
18 the limitations in subsections (4) and (5) of this section;

19 (g) Disclosure of information or records when necessary to the
20 efficient administration of the support enforcement program or to the
21 performance of functions and responsibilities of the support registry
22 and the division of child support as set forth in state and federal
23 statutes; or

24 (h) Disclosure of the information or records when authorized under
25 RCW 74.04.060.

26 (4) Prior to disclosing the whereabouts of a physical custodian,
27 custodial parent or a child to the other parent or party, a notice
28 shall be mailed, if appropriate under the circumstances, to the parent
29 or physical custodian whose whereabouts are to be disclosed, at that
30 person's last known address. The notice shall advise the parent or
31 physical custodian that a request for disclosure has been made and will
32 be complied with unless the department:

33 (a) Receives a copy of a court order within thirty days which
34 enjoins the disclosure of the information or restricts or limits the
35 requesting party's right to contact or visit the parent or party whose
36 address is to be disclosed or the child;

37 (b) Receives a hearing request within thirty days under subsection
38 (5) of this section; or

1 (c) Has reason to believe that the release of the information may
2 result in physical or emotional harm to the physical custodian whose
3 whereabouts are to be released, or to the child.

4 (5) A person receiving notice under subsection (4) of this section
5 may request an adjudicative proceeding under chapter 34.05 RCW, at
6 which the person may show that there is reason to believe that release
7 of the information may result in physical or emotional harm to the
8 person or the child. The administrative law judge shall determine
9 whether the whereabouts of the person or child should be disclosed
10 based on subsection (4)(c) of this section, however no hearing is
11 necessary if the department has in its possession a protective order or
12 an order limiting visitation or contact.

13 (6) The notice and hearing process in subsections (4) and (5) of
14 this section do not apply to protect the whereabouts of a noncustodial
15 parent, unless that parent has requested notice before whereabouts
16 information is released. A noncustodial parent may request such notice
17 by submitting a written request to the division of child support.

18 (7) Nothing in this section shall be construed as limiting or
19 restricting the effect of RCW 42.17.260(9) (as recodified by this act).
20 Nothing in this section shall be construed to prevent the disclosure of
21 information and records if all details identifying an individual are
22 deleted or the individual consents to the disclosure.

23 (8) It shall be unlawful for any person or agency in violation of
24 this section to solicit, publish, disclose, receive, make use of, or to
25 authorize, knowingly permit, participate in or acquiesce in the use of
26 any lists of names for commercial or political purposes or the use of
27 any information for purposes other than those purposes specified in
28 this section. A violation of this section shall be a gross misdemeanor
29 as provided in chapter 9A.20 RCW.

30 **Sec. 243.** RCW 27.53.070 and 1975-'76 2nd ex.s. c 82 s 3 are each
31 amended to read as follows:

32 It is the declared intention of the legislature that field
33 investigations on privately owned lands should be discouraged except in
34 accordance with both the provisions and spirit of this chapter and
35 persons having knowledge of the location of archaeological sites or
36 resources are encouraged to communicate such information to the
37 Washington archaeological research center. Such information shall not

1 constitute a public record which requires disclosure pursuant to the
2 exception authorized in ((~~RCW 42.17.310, as now or hereafter amended,~~))
3 chapter 42.30 RCW to avoid site depredation.

4 **Sec. 244.** RCW 28A.320.160 and 2004 c 29 s 3 are each amended to
5 read as follows:

6 School districts must, at the first opportunity but in all cases
7 within forty-eight hours of receiving a report alleging sexual
8 misconduct by a school employee, notify the parents of a student
9 alleged to be the victim, target, or recipient of the misconduct.
10 School districts shall provide parents with information regarding their
11 rights under the ((~~Washington public disclosure~~)) open government act,
12 chapter ((~~42.17~~)) 42.30 RCW, to request the public records regarding
13 school employee discipline. This information shall be provided to all
14 parents on an annual basis.

15 **Sec. 245.** RCW 28A.410.095 and 2004 c 134 s 1 are each amended to
16 read as follows:

17 (1) The superintendent of public instruction may initiate and
18 conduct investigations as may be reasonably necessary to establish the
19 existence of any alleged violations of or noncompliance with this
20 chapter or any rules adopted under it. For the purpose of any
21 investigation or proceeding under this chapter, the superintendent or
22 any officer designated by the superintendent may administer oaths and
23 affirmations, subpoena witnesses and compel their attendance, take
24 evidence, and require the production of any books, papers,
25 correspondence, memoranda, agreements, or other documents or records
26 that the superintendent deems relevant and material to the inquiry.

27 (2) Investigations conducted by the superintendent of public
28 instruction concerning alleged sexual misconduct towards a child shall
29 be completed within one year of the initiation of the investigation or
30 within thirty days of the completion of all proceedings, including
31 court proceedings, resulting from an investigation conducted by law
32 enforcement or child protective services if there is such an
33 investigation. The superintendent of public instruction may take, for
34 reasonable cause, additional time for completion of the investigation
35 after informing the victim, the individual being investigated, and the
36 school district that employs the individual being investigated of the

1 reasons additional time is needed and the amount of additional time
2 needed. Written notification must be provided to each of the parties
3 who must be informed. The sole remedy for a failure to complete an
4 investigation of sexual misconduct within the time allowed by this
5 subsection is a civil penalty of fifty dollars per day for each day
6 beyond the allowed time.

7 (3) If any person fails to obey a subpoena or obeys a subpoena but
8 refuses to give evidence, any court of competent jurisdiction, upon
9 application by the superintendent, may issue to that person an order
10 requiring him or her to appear before the court and to show cause why
11 he or she should not be compelled to obey the subpoena, and give
12 evidence material to the matter under investigation. The failure to
13 obey an order of the court may be punishable as contempt.

14 (4) Once an investigation has been initiated by the superintendent
15 of public instruction, the investigation shall be completed regardless
16 of whether the individual being investigated has resigned his or her
17 position or allowed his or her teaching certificate to lapse. The
18 superintendent shall make a written finding regarding each
19 investigation indicating the actions taken, including a statement of
20 the reasons why a complaint was dismissed or did not warrant further
21 investigation or action by the superintendent, and shall provide such
22 notice to each person who filed the complaint. Written findings under
23 this section are subject to public disclosure under chapter ((42.17))
24 42.30 RCW.

25 (5) An investigation into sexual or physical abuse of a student by
26 a school employee shall only be initiated by the superintendent of
27 public instruction after the superintendent of public instruction
28 verifies that the incident has been reported to the proper law
29 enforcement agency or the department of social and health services as
30 required under RCW 26.44.030.

31 **Sec. 246.** RCW 28B.85.020 and 2004 c 96 s 1 are each amended to
32 read as follows:

33 (1) The board:

34 (a) Shall adopt by rule minimum standards for degree-granting
35 institutions concerning granting of degrees, quality of education,
36 unfair business practices, financial stability, and other necessary
37 measures to protect citizens of this state against substandard,

1 fraudulent, or deceptive practices. The rules may require that an
2 institution be accredited or be making progress toward accreditation by
3 an accrediting agency recognized by the United States department of
4 education. The board shall adopt the rules in accordance with chapter
5 34.05 RCW;

6 (b) May investigate any entity the board reasonably believes to be
7 subject to the jurisdiction of this chapter. In connection with the
8 investigation, the board may administer oaths and affirmations, issue
9 subpoenas and compel attendance, take evidence, and require the
10 production of any books, papers, correspondence, memorandums, or other
11 records which the board deems relevant or material to the
12 investigation. The board, including its staff and any other authorized
13 persons, may conduct site inspections, the cost of which shall be borne
14 by the institution, and examine records of all institutions subject to
15 this chapter;

16 (c) Shall develop an interagency agreement with the work force
17 training and education coordinating board to regulate degree-granting
18 private vocational schools with respect to degree and nondegree
19 programs; and

20 (d) Shall develop and disseminate information to the public about
21 entities that sell or award degrees without requiring appropriate
22 academic achievement at the postsecondary level, including but not
23 limited to, a description of the substandard and potentially fraudulent
24 practices of these entities, and advice about how the public can
25 recognize and avoid the entities. To the extent feasible, the
26 information shall include links to additional resources that may assist
27 the public in identifying specific institutions offering substandard or
28 fraudulent degree programs.

29 (2) Financial disclosures provided to the board by degree-granting
30 private vocational schools are not subject to public disclosure under
31 chapter ((~~42.17~~)) 42.30 RCW.

32 **Sec. 247.** RCW 28C.10.050 and 2001 c 23 s 1 are each amended to
33 read as follows:

34 (1) The agency shall adopt by rule minimum standards for entities
35 operating private vocational schools. The minimum standards shall
36 include, but not be limited to, requirements for each school to:

1 (a) Disclose to the agency information about its ownership and
2 financial position and to demonstrate that it has sufficient financial
3 resources to fulfill its commitments to students. Financial
4 disclosures provided to the agency shall not be subject to public
5 disclosure under chapter ((42.17)) 42.30 RCW;

6 (b) Follow a uniform statewide cancellation and refund policy as
7 specified by the agency;

8 (c) Disclose through use of a school catalog, brochure, or other
9 written material, necessary information to students so that students
10 may make informed enrollment decisions. The agency shall specify what
11 information is required;

12 (d) Use an enrollment contract or agreement that includes: (i) The
13 cancellation and refund policy, (ii) a brief statement that the school
14 is licensed under this chapter and that inquiries may be made to the
15 agency, and (iii) other necessary information as determined by the
16 agency;

17 (e) Describe accurately and completely in writing to students
18 before their enrollment prerequisites and requirements for (i)
19 completing successfully the programs of study in which they are
20 interested and (ii) qualifying for the fields of employment for which
21 their education is designed;

22 (f) Comply with the requirements of RCW 28C.10.084;

23 (g) Assess the basic skills and relevant aptitudes of each
24 potential student to determine that a potential student has the basic
25 skills and relevant aptitudes necessary to complete and benefit from
26 the program in which the student plans to enroll. Guidelines for such
27 assessments shall be developed by the agency, in consultation with the
28 schools. The method of assessment shall be reported to the agency.
29 Assessment records shall be maintained in the student's file;

30 (h) Discuss with each potential student the potential student's
31 obligations in signing any enrollment contract and/or incurring any
32 debt for educational purposes. The discussion shall include the
33 inadvisability of acquiring an excessive educational debt burden that
34 will be difficult to repay given employment opportunities and average
35 starting salaries in the potential student's chosen occupation.

36 (2) Any enrollment contract shall have an attachment in a format
37 provided by the agency. The attachment shall be signed by both the
38 school and the student. The attachment shall stipulate that the school

1 has complied with subsection (1)(h) of this section and that the
2 student understands and accepts his or her responsibilities in signing
3 any enrollment contract or debt application. The attachment shall also
4 stipulate that the enrollment contract shall not be binding for at
5 least five days, excluding Sundays and holidays, following signature of
6 the enrollment contract by both parties.

7 (3) The agency shall deny, revoke, or suspend the license of any
8 school that does not meet or maintain the minimum standards.

9 **Sec. 248.** RCW 29A.04.225 and 2003 c 111 s 136 are each amended to
10 read as follows:

11 Each county auditor or county elections official shall ensure that
12 reports filed pursuant to chapter ((42.17)) 42.30 RCW are arranged,
13 handled, indexed, and disclosed in a manner consistent with the rules
14 of the public disclosure commission adopted under RCW 42.17.375.

15 **Sec. 249.** RCW 29A.60.070 and 2003 c 111 s 1507 are each amended to
16 read as follows:

17 The county auditor shall produce cumulative and precinct returns
18 for each primary and election and deliver them to the canvassing board
19 for verification and certification. The precinct and cumulative
20 returns of any primary or election are public records under chapter
21 ((42.17)) 42.30 RCW.

22 **Sec. 250.** RCW 29A.60.140 and 2003 c 111 s 1514 are each amended to
23 read as follows:

24 (1) Members of the county canvassing board are the county auditor,
25 who is the chair, the county prosecuting attorney, and the chair of the
26 county legislative body. If a member of the board is not available to
27 carry out the duties of the board, then the auditor may designate a
28 deputy auditor, the prosecutor may designate a deputy prosecuting
29 attorney, and the chair of the county legislative body may designate
30 another member of the county legislative body. Any such designation
31 may be made on an election-by-election basis or may be on a permanent
32 basis until revoked by the designating authority. Any such designation
33 must be in writing, and if for a specific election, must be filed with
34 the county auditor not later than the day before the first day duties
35 are to be undertaken by the canvassing board. If the designation is

1 permanent until revoked by the designating authority, then the
2 designation must be on file in the county auditor's office no later
3 than the day before the first day the designee is to undertake the
4 duties of the canvassing board.

5 (2) The county canvassing board may adopt rules that delegate in
6 writing to the county auditor or the county auditor's staff the
7 performance of any task assigned by law to the canvassing board.

8 (3) The county canvassing board may not delegate the responsibility
9 of certifying the returns of a primary or election, of determining the
10 validity of challenged ballots, or of determining the validity of
11 provisional ballots referred to the board by the county auditor.

12 (4) The county canvassing board shall adopt administrative rules to
13 facilitate and govern the canvassing process in that jurisdiction.

14 (5) Meetings of the county canvassing board are public meetings
15 under chapter 42.30 RCW. All rules adopted by the county canvassing
16 board must be adopted in a public meeting under chapter 42.30 RCW, and
17 once adopted must be available to the public to review and copy under
18 chapter ((42.17)) 42.30 RCW.

19 **Sec. 251.** RCW 30.04.075 and 1994 c 92 s 11 are each amended to
20 read as follows:

21 (1) All examination reports and all information obtained by the
22 director and the director's staff in conducting examinations of banks,
23 trust companies, or alien banks, and information obtained by the
24 director and the director's staff from other state or federal bank
25 regulatory authorities with whom the director has entered into
26 agreements pursuant to RCW 30.04.060(2), and information obtained by
27 the director and the director's staff relating to examination and
28 supervision of bank holding companies owning a bank in this state or
29 subsidiaries of such holding companies, is confidential and privileged
30 information and shall not be made public or otherwise disclosed to any
31 person, firm, corporation, agency, association, governmental body, or
32 other entity.

33 (2) Subsection (1) of this section notwithstanding, the director
34 may furnish all or any part of examination reports prepared by the
35 director's office to:

36 (a) Federal agencies empowered to examine state banks, trust
37 companies, or alien banks;

1 (b) Bank regulatory authorities with whom the director has entered
2 into agreements pursuant to RCW 30.04.060(2), and other bank regulatory
3 authorities who are the primary regulatory authority or insurer of
4 accounts for a bank holding company owning a bank, trust company, or
5 national banking association the principal operations of which are
6 conducted in this state or a subsidiary of such holding company;
7 provided that the director shall first find that the reports of
8 examination to be furnished shall receive protection from disclosure
9 comparable to that accorded by this section;

10 (c) Officials empowered to investigate criminal charges subject to
11 legal process, valid search warrant, or subpoena. If the director
12 furnishes any examination report to officials empowered to investigate
13 criminal charges, the director may only furnish that part of the report
14 which is necessary and pertinent to the investigation, and the director
15 may do this only after notifying the affected bank, trust company, or
16 alien bank and any customer of the bank, trust company, or alien bank
17 who is named in that part of the examination or report ordered to be
18 furnished unless the officials requesting the report first obtain a
19 waiver of the notice requirement from a court of competent jurisdiction
20 for good cause;

21 (d) The examined bank, trust company, or alien bank, or holding
22 company thereof;

23 (e) The attorney general in his or her role as legal advisor to the
24 director;

25 (f) Liquidating agents of a distressed bank, trust company, or
26 alien bank;

27 (g) A person or organization officially connected with the bank as
28 officer, director, attorney, auditor, or independent attorney or
29 independent auditor;

30 (h) The Washington public deposit protection commission as provided
31 by RCW 39.58.105.

32 (3) All examination reports furnished under subsections (2) and (4)
33 of this section shall remain the property of the department of
34 financial institutions, and be confidential and no person, agency, or
35 authority to whom reports are furnished or any officer, director, or
36 employee thereof shall disclose or make public any of the reports or
37 any information contained therein except in published statistical
38 material that does not disclose the affairs of any individual or

1 corporation: PROVIDED, That nothing herein shall prevent the use in a
2 criminal prosecution of reports furnished under subsection (2) of this
3 section.

4 (4) The examination report made by the department of financial
5 institutions is designed for use in the supervision of the bank, trust
6 company, or alien bank. The report shall remain the property of the
7 director and will be furnished to the bank, trust company, or alien
8 bank solely for its confidential use. Under no circumstances shall the
9 bank, trust company, or alien bank or any of its directors, officers,
10 or employees disclose or make public in any manner the report or any
11 portion thereof, to any person or organization not connected with the
12 bank as officer, director, employee, attorney, auditor, or candidate
13 for executive office with the bank. The bank may also, after execution
14 of an agreement not to disclose information in the report, disclose the
15 report or relevant portions thereof to a party proposing to acquire or
16 merge with the bank.

17 (5) Examination reports and information obtained by the director
18 and the director's staff in conducting examinations, or obtained from
19 other state and federal bank regulatory authorities with whom the
20 director has entered into agreements pursuant to RCW 30.04.060(2), or
21 relating to examination and supervision of bank holding companies
22 owning a bank, trust company, or national banking association the
23 principal operations of which are conducted in this state or a
24 subsidiary of such holding company, or information obtained as a result
25 of applications or investigations pursuant to RCW 30.04.230, shall not
26 be subject to public disclosure under chapter (~~42.17~~) 42.30 RCW.

27 (6) In any civil action in which the reports are sought to be
28 discovered or used as evidence, any party may, upon notice to the
29 director, petition the court for an in camera review of the report.
30 The court may permit discovery and introduction of only those portions
31 of the report which are relevant and otherwise unobtainable by the
32 requesting party. This subsection shall not apply to an action brought
33 or defended by the director.

34 (7) This section shall not apply to investigation reports prepared
35 by the director and the director's staff concerning an application for
36 a new bank or trust company or an application for a branch of a bank,
37 trust company, or alien bank: PROVIDED, That the director may adopt
38 rules making confidential portions of the reports if in the director's

1 opinion the public disclosure of the portions of the report would
2 impair the ability to obtain the information which the director
3 considers necessary to fully evaluate the application.

4 (8) Every person who violates any provision of this section shall
5 be guilty of a gross misdemeanor.

6 **Sec. 252.** RCW 30.04.230 and 1994 c 92 s 22 are each amended to
7 read as follows:

8 (1) A corporation or association organized under the laws of this
9 state or licensed to transact business in the state may acquire any or
10 all shares of stock of any bank, trust company, or national banking
11 association. Nothing in this section shall be construed to prohibit
12 the merger, consolidation, or reorganization of a bank or trust company
13 in accordance with this title.

14 (2) Unless the terms of this section or RCW 30.04.232 are complied
15 with, an out-of-state bank holding company shall not acquire more than
16 five percent of the shares of the voting stock or all or substantially
17 all of the assets of a bank, trust company, or national banking
18 association the principal operations of which are conducted within this
19 state.

20 (3) As used in this section a "bank holding company" means a
21 company that is a bank holding company as defined by the Bank Holding
22 Company Act of 1956, as amended (12 U.S.C. Sec. 1841 et seq.). An
23 "out-of-state bank holding company" is a bank holding company that
24 principally conducts its operations outside this state, as measured by
25 total deposits held or controlled by its bank subsidiaries on the date
26 on which it became a holding company. A "domestic bank holding
27 company" is a bank holding company that principally conducts its
28 operations within this state, as measured by total deposits held or
29 controlled by its bank subsidiaries on the date on which it became a
30 bank holding company.

31 (4) Any such acquisition referred to under subsection (2) of this
32 section by an out-of-state bank holding company requires the express
33 written approval of the director. Approval shall not be granted unless
34 and until the following conditions are met:

35 (a) An out-of-state bank holding company desiring to make an
36 acquisition referred to under subsection (2) of this section and the
37 bank, trust company, national banking association, or domestic bank

1 holding company parent thereof, if any, proposed to be acquired shall
2 file an application in writing with the director. The director shall
3 by rule establish the fee schedule to be collected from the applicant
4 in connection with the application. The fee shall not exceed the cost
5 of processing the application. The application shall contain such
6 information as the director may prescribe by rule as necessary or
7 appropriate for the purpose of making a determination under this
8 section. The application and supporting information and all
9 examination reports and information obtained by the director and the
10 director's staff in conducting its investigation shall be confidential
11 and privileged and not subject to public disclosure under chapter
12 ((42.17)) 42.30 RCW. The application and information may be disclosed
13 to federal bank regulatory agencies and to officials empowered to
14 investigate criminal charges, subject to legal process, valid search
15 warrant, or subpoena. In any civil action in which such application or
16 information is sought to be discovered or used as evidence, any party
17 may, upon notice to the director and other parties, petition for an in
18 camera review. The court may permit discovery and introduction of only
19 those portions that are relevant and otherwise unobtainable by the
20 requesting party. The application and information shall be
21 discoverable in any judicial action challenging the approval of an
22 acquisition by the director as arbitrary and capricious or unlawful.

23 (b) The director shall find that:

24 (i) The bank, trust company, or national banking association that
25 is proposed to be acquired or the domestic bank holding company
26 controlling such bank, trust company, or national banking association
27 is in such a liquidity or financial condition as to be in danger of
28 closing, failing, or insolvency. In making any such determination the
29 director shall be guided by the criteria developed by the federal
30 regulatory agencies with respect to emergency acquisitions under the
31 provisions of 12 U.S.C. Sec. 1828(c);

32 (ii) There is no state bank, trust company, or national banking
33 association doing business in the state of Washington or domestic bank
34 holding company with sufficient resources willing to acquire the entire
35 bank, trust company, or national banking association on at least as
36 favorable terms as the out-of-state bank holding company is willing to
37 acquire it;

1 (iii) The applicant out-of-state bank holding company has provided
2 all information and documents requested by the director in relation to
3 the application; and

4 (iv) The applicant out-of-state bank holding company has
5 demonstrated an acceptable record of meeting the credit needs of its
6 entire community, including low and moderate income neighborhoods,
7 consistent with the safe and sound operation of such institution.

8 (c) The director shall consider:

9 (i) The financial institution structure of this state; and

10 (ii) The convenience and needs of the public of this state.

11 (5) Nothing in this section may be construed to prohibit, limit,
12 restrict, or subject to further regulation the ownership by a bank of
13 the stock of a bank service corporation or a banker's bank.

14 **Sec. 253.** RCW 30.04.410 and 1994 c 92 s 30 are each amended to
15 read as follows:

16 (1) The director may disapprove the acquisition of a bank or trust
17 company within thirty days after the filing of a complete application
18 pursuant to RCW 30.04.405 or an extended period not exceeding an
19 additional fifteen days if:

20 (a) The poor financial condition of any acquiring party might
21 jeopardize the financial stability of the bank or might prejudice the
22 interests of the bank depositors, borrowers, or shareholders;

23 (b) The plan or proposal of the acquiring party to liquidate the
24 bank, to sell its assets, to merge it with any person, or to make any
25 other major change in its business or corporate structure or management
26 is not fair and reasonable to the bank's depositors, borrowers, or
27 stockholders or is not in the public interest;

28 (c) The banking and business experience and integrity of any
29 acquiring party who would control the operation of the bank indicates
30 that approval would not be in the interest of the bank's depositors,
31 borrowers, or shareholders;

32 (d) The information provided by the application is insufficient for
33 the director to make a determination or there has been insufficient
34 time to verify the information provided and conduct an examination of
35 the qualification of the acquiring party; or

36 (e) The acquisition would not be in the public interest.

1 (2) An acquisition may be made prior to expiration of the
2 disapproval period if the director issues written notice of intent not
3 to disapprove the action.

4 (3) The director shall set forth the basis for disapproval of any
5 proposed acquisition in writing and shall provide a copy of such
6 findings and order to the applicants and to the bank involved. Such
7 findings and order shall not be disclosed to any other party and shall
8 not be subject to public disclosure under chapter ((42.17)) 42.30 RCW
9 unless the findings and/or order are appealed pursuant to chapter 34.05
10 RCW.

11 (4) Whenever such a change in control occurs, each party to the
12 transaction shall report promptly to the director any changes or
13 replacement of its chief executive officer, or of any director, that
14 occurs in the next twelve-month period, including in its report a
15 statement of the past and present business and professional
16 affiliations of the new chief executive officer or directors.

17 **Sec. 254.** RCW 31.12.565 and 2001 c 83 s 28 are each amended to
18 read as follows:

19 (1) The following are confidential and privileged and not subject
20 to public disclosure under chapter ((42.17)) 42.30 RCW:

21 (a) Examination reports and information obtained by the director in
22 conducting examinations and investigations under this chapter and
23 chapter 31.13 RCW;

24 (b) Examination reports and related information from other
25 financial institution regulators obtained by the director;

26 (c) Reports or parts of reports accepted in lieu of an examination
27 under RCW 31.12.545; and

28 (d) Business plans and other proprietary information obtained by
29 the director in connection with a credit union's application or notice
30 to the director.

31 (2) Notwithstanding subsection (1) of this section, the director
32 may furnish examination reports prepared by the director to:

33 (a) Federal agencies empowered to examine credit unions or other
34 financial institutions;

35 (b) Officials empowered to investigate criminal charges. The
36 director may furnish only that part of the report which is necessary
37 and pertinent to the investigation, and only after notifying the

1 affected credit union and members of the credit union who are named in
2 that part of the examination report, or other person examined, that the
3 report is being furnished to the officials, unless the officials
4 requesting the report obtain a waiver of the notice requirement for
5 good cause from a court of competent jurisdiction;

6 (c) The examined credit union or other person examined, solely for
7 its confidential use;

8 (d) The attorney general in his or her role as legal advisor to the
9 director;

10 (e) Prospective merger partners or conservators, receivers, or
11 liquidating agents of a distressed credit union;

12 (f) Credit union regulators in other states or foreign
13 jurisdictions regarding an out-of-state or foreign credit union
14 conducting business in this state under this chapter, or regarding a
15 credit union conducting business in the other state or jurisdiction;

16 (g) A person officially connected with the credit union or other
17 person examined, as officer, director, supervisory committee member,
18 attorney, auditor, accountant, independent attorney, independent
19 auditor, or independent accountant;

20 (h) Organizations that have bonded the credit union to the extent
21 that information is relevant to the renewal of the bond coverage or to
22 a claim under the bond coverage;

23 (i) Organizations insuring or guaranteeing the shares of, or
24 deposits in, the credit union; or

25 (j) Other persons as the director may determine necessary to
26 protect the public interest and confidence.

27 (3) Examination reports furnished under subsection (2) of this
28 section remain the property of the director and no person to whom
29 reports are furnished or any officer, director, or employee thereof may
30 disclose or make public the reports or information contained in the
31 reports except in published statistical information that does not
32 disclose the affairs of a person, except that nothing prevents the use
33 in a criminal prosecution of reports furnished under subsection (2)(b)
34 of this section.

35 (4) In a civil action in which the reports or information are
36 sought to be discovered or used as evidence, a party may, upon notice
37 to the director, petition the court for an in-camera review of the
38 reports or information. The court may permit discovery and

1 introduction of only those portions of the report or information which
2 are relevant and otherwise unobtainable by the requesting party. This
3 subsection does not apply to an action brought or defended by the
4 director.

5 (5) This section does not apply to investigation reports prepared
6 by the director concerning an application for a new credit union or a
7 notice of intent to establish a branch of a credit union, except that
8 the director may adopt rules making portions of the reports
9 confidential, if in the director's opinion the public disclosure of
10 that portion of the report would impair the ability to obtain
11 information the director considers necessary to fully evaluate the
12 application.

13 (6) Any person who knowingly violates a provision of this section
14 is guilty of a gross misdemeanor.

15 **Sec. 255.** RCW 31.45.030 and 2003 c 86 s 3 are each amended to read
16 as follows:

17 (1) Except as provided in RCW 31.45.020, no check casher or seller
18 may engage in business without first obtaining a license from the
19 director in accordance with this chapter. A license is required for
20 each location where a licensee engages in the business of cashing or
21 selling checks or drafts.

22 (2) Each application for a license shall be in writing in a form
23 prescribed by the director and shall contain the following information:

24 (a) The legal name, residence, and business address of the
25 applicant and, if the applicant is a partnership, association, or
26 corporation, of every member, officer, and director thereof;

27 (b) The location where the initial registered office of the
28 applicant will be located in this state;

29 (c) The complete address of any other locations at which the
30 applicant proposes to engage in business as a check casher or seller;
31 and

32 (d) Such other data, financial statements, and pertinent
33 information as the director may require with respect to the applicant,
34 its directors, trustees, officers, members, or agents.

35 (3) Any information in the application regarding the personal
36 residential address or telephone number of the applicant, and any trade

1 secret as defined in RCW 19.108.010 including any financial statement
2 that is a trade secret, is exempt from the public records disclosure
3 requirements of chapter ((42.17)) 42.30 RCW.

4 (4) The application shall be filed together with an investigation
5 and supervision fee established by rule by the director. Such fees
6 collected shall be deposited to the credit of the financial services
7 regulation fund in accordance with RCW 43.320.110.

8 (5)(a) Before granting a license to sell checks, drafts, or money
9 orders under this chapter, the director shall require that the licensee
10 file with the director a surety bond running to the state of
11 Washington, which bond shall be issued by a surety insurer which meets
12 the requirements of chapter 48.28 RCW, and be in a format acceptable to
13 the director. The director shall adopt rules to determine the penal
14 sum of the bond that shall be filed by each licensee. The bond shall
15 be conditioned upon the licensee paying all persons who purchase
16 checks, drafts, or money orders from the licensee the face value of any
17 check, draft, or money order which is dishonored by the drawee bank,
18 savings bank, or savings and loan association due to insufficient funds
19 or by reason of the account having been closed. The bond shall only be
20 liable for the face value of the dishonored check, draft, or money
21 order, and shall not be liable for any interest or consequential
22 damages.

23 (b) Before granting a small loan endorsement under this chapter,
24 the director shall require that the licensee file with the director a
25 surety bond, in a format acceptable to the director, issued by a surety
26 insurer that meets the requirements of chapter 48.28 RCW. The director
27 shall adopt rules to determine the penal sum of the bond that shall be
28 filed by each licensee. A licensee who wishes to engage in both check
29 selling and making small loans may combine the penal sums of the
30 bonding requirements and file one bond in a form acceptable to the
31 director. The bond shall run to the state of Washington as obligee,
32 and shall run to the benefit of the state and any person or persons who
33 suffer loss by reason of the licensee's violation of this chapter or
34 any rules adopted under this chapter. The bond shall only be liable
35 for damages suffered by borrowers as a result of the licensee's
36 violation of this chapter or rules adopted under this chapter, and
37 shall not be liable for any interest or consequential damages.

1 (c) The bond shall be continuous and may be canceled by the surety
2 upon the surety giving written notice to the director and licensee of
3 its intent to cancel the bond. The cancellation is effective thirty
4 days after the notice is received by the director. Whether or not the
5 bond is renewed, continued, reinstated, reissued, or otherwise
6 extended, replaced, or modified, including increases or decreases in
7 the penal sum, it shall be considered one continuous obligation, and
8 the surety upon the bond shall not be liable in an aggregate or
9 cumulative amount exceeding the penal sum set forth on the face of the
10 bond. In no event shall the penal sum, or any portion thereof, at two
11 or more points in time be added together in determining the surety's
12 liability. The bond shall not be liable for any liability of the
13 licensee for tortious acts, whether or not such liability is imposed by
14 statute or common law, or is imposed by contract. The bond shall not
15 be a substitute or supplement to any liability or other insurance
16 required by law or by the contract. If the surety desires to make
17 payment without awaiting court action against it, the penal sum of the
18 bond shall be reduced to the extent of any payment made by the surety
19 in good faith under the bond.

20 (d) Any person who is a purchaser of a check, draft, or money order
21 from the licensee having a claim against the licensee for the dishonor
22 of any check, draft, or money order by the drawee bank, savings bank,
23 or savings and loan association due to insufficient funds or by reason
24 of the account having been closed, or who obtained a small loan from
25 the licensee and was damaged by the licensee's violation of this
26 chapter or rules adopted under this chapter, may bring suit upon such
27 bond or deposit in the superior court of the county in which the check,
28 draft, or money order was purchased, or in the superior court of a
29 county in which the licensee maintains a place of business.
30 Jurisdiction shall be exclusively in the superior court. Any such
31 action must be brought not later than one year after the dishonor of
32 the check, draft, or money order on which the claim is based. In the
33 event valid claims against a bond or deposit exceed the amount of the
34 bond or deposit, each claimant shall only be entitled to a pro rata
35 amount, based on the amount of the claim as it is valid against the
36 bond, or deposit, without regard to the date of filing of any claim or
37 action.

1 (e) In lieu of the surety bond required by this section, the
2 applicant for a check seller license may file with the director a
3 deposit consisting of cash or other security acceptable to the director
4 in an amount equal to the penal sum of the required bond. In lieu of
5 the surety bond required by this section, the applicant for a small
6 loan endorsement may file with the director a deposit consisting of
7 cash or other security acceptable to the director in an amount equal to
8 the penal sum of the required bond, or may demonstrate to the director
9 net worth in excess of three times the amount of the penal sum of the
10 required bond.

11 The director may adopt rules necessary for the proper
12 administration of the security or to establish reporting requirements
13 to ensure that the net worth requirements continue to be met. A
14 deposit given instead of the bond required by this section is not an
15 asset of the licensee for the purpose of complying with the liquid
16 asset provisions of this chapter. A deposit given instead of the bond
17 required by this section is a fund held in trust for the benefit of
18 eligible claimants under this section and is not an asset of the estate
19 of any licensee that seeks protection voluntarily or involuntarily
20 under the bankruptcy laws of the United States.

21 (f) Such security may be sold by the director at public auction if
22 it becomes necessary to satisfy the requirements of this chapter.
23 Notice of the sale shall be served upon the licensee who placed the
24 security personally or by mail. If notice is served by mail, service
25 shall be addressed to the licensee at its address as it appears in the
26 records of the director. Bearer bonds of the United States or the
27 state of Washington without a prevailing market price must be sold at
28 public auction. Such bonds having a prevailing market price may be
29 sold at private sale not lower than the prevailing market price. Upon
30 any sale, any surplus above amounts due shall be returned to the
31 licensee, and the licensee shall deposit with the director additional
32 security sufficient to meet the amount required by the director. A
33 deposit given instead of the bond required by this section shall not be
34 deemed an asset of the licensee for the purpose of complying with the
35 liquid asset provisions of this chapter.

36 **Sec. 256.** RCW 31.45.077 and 2003 c 86 s 9 are each amended to read
37 as follows:

1 (1) Each application for a small loan endorsement to a check casher
2 or check seller license must be in writing and in a form prescribed by
3 the director and shall contain the following information:

4 (a) The legal name, residence, and business address of the
5 applicant, and if the applicant is a partnership, corporation, or
6 association, the name and address of every member, partner, officer,
7 and director thereof;

8 (b) The street and mailing address of each location where the
9 licensee will engage in the business of making small loans;

10 (c) A surety bond, or other security allowed under RCW 31.45.030,
11 in the amount required; and

12 (d) Any other pertinent information, including financial
13 statements, as the director may require with respect to the licensee
14 and its directors, officers, trustees, members, or employees.

15 (2) Any information in the application regarding the licensee's
16 personal residential address or telephone number, and any trade secrets
17 of the licensee as defined under RCW 19.108.010 including any financial
18 statement that is a trade secret, is exempt from the public records
19 disclosure requirements of chapter ((42.17)) 42.30 RCW.

20 (3) The application shall be filed together with an investigation
21 and review fee established by rule by the director. Fees collected
22 shall be deposited to the credit of the financial services regulation
23 fund in accordance with RCW 43.320.110.

24 **Sec. 257.** RCW 31.45.090 and 2003 c 86 s 15 are each amended to
25 read as follows:

26 (1) Each licensee shall submit to the director, in a form approved
27 by the director, a report containing financial statements covering the
28 calendar year or, if the licensee has an established fiscal year, then
29 for such fiscal year, within one hundred five days after the close of
30 each calendar or fiscal year. The licensee shall also file such
31 additional relevant information as the director may require. Any
32 information provided by a licensee in an annual report that constitutes
33 a trade secret under chapter 19.108 RCW is exempt from disclosure under
34 chapter ((42.17)) 42.30 RCW, unless aggregated with information
35 supplied by other licensees in such a manner that the licensee's
36 individual information is not identifiable. Any information provided

1 by the licensee that allows identification of the licensee may only be
2 used for purposes reasonably related to the regulation of licensees to
3 ensure compliance with this chapter.

4 (2) A licensee whose license has been suspended or revoked shall
5 submit to the director, at the licensee's expense, within one hundred
6 five days after the effective date of such surrender or revocation, a
7 closing audit report containing audited financial statements as of such
8 effective date for the twelve months ending with such effective date.

9 (3) The director shall adopt rules specifying the form and content
10 of such audit reports and may require additional reporting as is
11 necessary for the director to ensure compliance with this chapter.

12 **Sec. 258.** RCW 32.04.220 and 1994 c 92 s 301 are each amended to
13 read as follows:

14 (1) All examination reports and all information obtained by the
15 director and the director's staff in conducting examinations of mutual
16 savings banks, and information obtained by the director and the
17 director's staff from other state or federal bank regulatory
18 authorities with whom the director has entered into agreements pursuant
19 to RCW 32.04.211, and information obtained by the director and the
20 director's staff relating to examination and supervision of holding
21 companies owning a savings bank in this state or subsidiaries of such
22 holding companies, is confidential and privileged information and shall
23 not be made public or otherwise disclosed to any person, firm,
24 corporation, agency, association, governmental body, or other entity.

25 (2) Subsection (1) of this section notwithstanding, the director
26 may furnish all or any part of examination reports prepared by the
27 director's office to:

28 (a) Federal agencies empowered to examine mutual savings banks;

29 (b) Bank regulatory authorities with whom the director has entered
30 into agreements pursuant to RCW 32.04.211, and other bank regulatory
31 authorities who are the primary regulatory authority or insurer of
32 accounts for a holding company owning a savings bank the principal
33 operations of which are conducted in this state or a subsidiary of such
34 holding company; provided that the director shall first find that the
35 reports of examination to be furnished shall receive protection from
36 disclosure comparable to that accorded by this section;

1 (c) Officials empowered to investigate criminal charges subject to
2 legal process, valid search warrant, or subpoena. If the director
3 furnishes any examination report to officials empowered to investigate
4 criminal charges, the director may only furnish that part of the report
5 which is necessary and pertinent to the investigation, and the director
6 may do this only after notifying the affected mutual savings bank and
7 any customer of the mutual savings bank who is named in that part of
8 the report of the order to furnish the part of the examination report
9 unless the officials requesting the report first obtain a waiver of the
10 notice requirement from a court of competent jurisdiction for good
11 cause;

12 (d) The examined savings bank or holding company thereof;

13 (e) The attorney general in his or her role as legal advisor to the
14 director;

15 (f) Liquidating agents of a distressed savings bank;

16 (g) A person or organization officially connected with the savings
17 bank as officer, director, attorney, auditor, or independent attorney
18 or independent auditor;

19 (h) The Washington public deposit protection commission as provided
20 by RCW 39.58.105.

21 (3) All examination reports furnished under subsections (2) and (4)
22 of this section shall remain the property of the department of
23 financial institutions, and be confidential, and no person, agency, or
24 authority to whom reports are furnished or any officer, director, or
25 employee thereof shall disclose or make public any of the reports or
26 any information contained therein except in published statistical
27 material that does not disclose the affairs of any individual or
28 corporation: PROVIDED, That nothing herein shall prevent the use in a
29 criminal prosecution of reports furnished under subsection (2) of this
30 section.

31 (4) The examination report made by the department of financial
32 institutions is designed for use in the supervision of the mutual
33 savings bank, and the director may furnish a copy of the report to the
34 mutual savings bank examined. The report shall remain the property of
35 the director and will be furnished to the mutual savings bank solely
36 for its confidential use. Under no circumstances shall the mutual
37 savings bank or any of its trustees, officers, or employees disclose or
38 make public in any manner the report or any portion thereof, to any

1 person or organization not connected with the savings bank as officer,
2 director, employee, attorney, auditor, or candidate for executive
3 office with the bank. The savings bank may also, after execution of an
4 agreement not to disclose information in the report, disclose the
5 report or relevant portions thereof to a party proposing to acquire or
6 merge with the savings bank.

7 (5) Examination reports and information obtained by the director
8 and the director's staff in conducting examinations, or from other
9 state and federal bank regulatory authorities with whom the director
10 has entered into agreements pursuant to RCW 32.04.211, or relating to
11 examination and supervision of holding companies owning a savings bank
12 the principal operations of which are conducted in this state or a
13 subsidiary of such holding company, shall not be subject to public
14 disclosure under chapter (~~42.17~~) 42.30 RCW.

15 (6) In any civil action in which the reports are sought to be
16 discovered or used as evidence, any party may, upon notice to the
17 director, petition the court for an in camera review of the report.
18 The court may permit discovery and introduction of only those portions
19 of the report which are relevant and otherwise unobtainable by the
20 requesting party. This subsection shall not apply to an action brought
21 or defended by the director.

22 (7) This section shall not apply to investigation reports prepared
23 by the director and the director's staff concerning an application for
24 a new mutual savings bank or an application for a branch of a mutual
25 savings bank: PROVIDED, That the director may adopt rules making
26 confidential portions of the reports if in the director's opinion the
27 public disclosure of the portions of the report would impair the
28 ability to obtain the information which the director considers
29 necessary to fully evaluate the application.

30 (8) Every person who violates any provision of this section shall
31 forfeit the person's office or employment and be guilty of a gross
32 misdemeanor.

33 **Sec. 259.** RCW 32.32.228 and 1994 c 92 s 366 are each amended to
34 read as follows:

35 (1) As used in this section, the following definitions apply:

36 (a) "Control" means directly or indirectly alone or in concert with

1 others to own, control, or hold the power to vote twenty-five percent
2 or more of the outstanding stock or voting power of the controlled
3 entity;

4 (b) "Acquiring party" means the person acquiring control of a bank
5 through the purchase of stock;

6 (c) "Person" means any individual, corporation, partnership, group
7 acting in concert, association, business trust, or other organization.

8 (2)(a) It is unlawful for any person to acquire control of a
9 converted savings bank until thirty days after filing with the director
10 a completed application. The application shall be under oath or
11 affirmation, and shall contain substantially all of the following
12 information plus any additional information that the director may
13 prescribe as necessary or appropriate in the particular instance for
14 the protection of bank depositors, borrowers, or shareholders and the
15 public interest:

16 (i) The identity and banking and business experience of each person
17 by whom or on whose behalf acquisition is to be made;

18 (ii) The financial and managerial resources and future prospects of
19 each person involved in the acquisition;

20 (iii) The terms and conditions of any proposed acquisition and the
21 manner in which the acquisition is to be made;

22 (iv) The source and amount of the funds or other consideration used
23 or to be used in making the acquisition, and a description of the
24 transaction and the names of the parties if any part of these funds or
25 other consideration has been or is to be borrowed or otherwise obtained
26 for the purpose of making the acquisition;

27 (v) Any plan or proposal which any person making the acquisition
28 may have to liquidate the bank, to sell its assets, to merge it with
29 any other bank, or to make any other major change in its business or
30 corporate structure or management;

31 (vi) The identification of any person employed, retained, or to be
32 compensated by the acquiring party, or by any person on its behalf, who
33 makes solicitations or recommendations to shareholders for the purpose
34 of assisting in the acquisition and a brief description of the terms of
35 the employment, retainer, or arrangement for compensation;

36 (vii) Copies of all invitations for tenders or advertisements
37 making a tender offer to shareholders for the purchase of their stock
38 to be used in connection with the proposed acquisition; and

1 (viii) Such additional information as shall be necessary to satisfy
2 the director, in the exercise of the director's discretion, that each
3 such person and associate meets the standards of character,
4 responsibility, and general fitness established for incorporators of a
5 savings bank under RCW 32.08.040.

6 (b) Notwithstanding any other provision of this section, a bank or
7 bank holding company which has been in operation for at least three
8 consecutive years or a converted mutual savings bank or the holding
9 company of a mutual savings bank need only notify the director and the
10 savings bank to be acquired of an intent to acquire control and the
11 date of the proposed acquisition of control at least thirty days before
12 the date of the acquisition of control.

13 (c) When a person, other than an individual or corporation, is
14 required to file an application under this section, the director may
15 require that the information required by (a) (i), (ii), (vi), and
16 (viii) of this subsection be given with respect to each person, as
17 defined in subsection (1)(c) of this section, who has an interest in or
18 controls a person filing an application under this subsection.

19 (d) When a corporation is required to file an application under
20 this section, the director may require that information required by (a)
21 (i), (ii), (vi), and (viii) of this subsection be given for the
22 corporation, each officer and director of the corporation, and each
23 person who is directly or indirectly the beneficial owner of twenty-
24 five percent or more of the outstanding voting securities of the
25 corporation.

26 (e) If any tender offer, request, or invitation for tenders or
27 other agreements to acquire control is proposed to be made by means of
28 a registration statement under the securities act of 1933 (48 Stat. 74,
29 15 U.S.C. Sec. 77(a)), as amended, or in circumstances requiring the
30 disclosure of similar information under the securities exchange act of
31 1934 (48 Stat. 881, 15 U.S.C. Sec. 78(a)), as amended, the registration
32 statement or application may be filed with the director in lieu of the
33 requirements of this section.

34 (f) Any acquiring party shall also deliver a copy of any notice or
35 application required by this section to the savings bank proposed to be
36 acquired within two days after such notice or application is filed with
37 the director.

1 (g) Any acquisition of control in violation of this section shall
2 be ineffective and void.

3 (h) Any person who willfully or intentionally violates this section
4 or any rule adopted under this section is guilty of a gross misdemeanor
5 pursuant to chapter 9A.20 RCW. Each day's violation shall be
6 considered a separate violation, and any person shall upon conviction
7 be fined not more than one thousand dollars for each day the violation
8 continues.

9 (3) The director may disapprove the acquisition of a savings bank
10 within thirty days after the filing of a complete application pursuant
11 to subsections (1) and (2) of this section or an extended period not
12 exceeding an additional fifteen days if:

13 (a) The poor financial condition of any acquiring party might
14 jeopardize the financial stability of the savings bank or might
15 prejudice the interest of depositors, borrowers, or shareholders;

16 (b) The plan or proposal of the acquiring party to liquidate the
17 savings bank, to sell its assets, to merge it with any person, or to
18 make any other major change in its business or corporate structure or
19 management is not fair and reasonable to its depositors, borrowers, or
20 stockholders or is not in public interest;

21 (c) The banking and business experience and integrity of any
22 acquiring party who would control the operation of the savings bank
23 indicates that approval would not be in the interest of the savings
24 bank's depositors, borrowers, or shareholders;

25 (d) The information provided by the application is insufficient for
26 the director to make a determination or there has been insufficient
27 time to verify the information provided and conduct an examination of
28 the qualification of the acquiring party; or

29 (e) The acquisition would not be in the public interest.

30 An acquisition may be made prior to expiration of the disapproval
31 period if the director issues written notice of intent not to
32 disapprove the action.

33 The director shall set forth the basis for disapproval of any
34 proposed acquisition in writing and shall provide a copy of such
35 findings and order to the applicants and to the bank involved. Such
36 findings and order shall not be disclosed to any other party and shall
37 not be subject to public disclosure under chapter ((42.17)) 42.30 RCW

1 unless the findings and/or order are appealed pursuant to chapter 34.05
2 RCW.

3 Whenever such a change in control occurs, each party to the
4 transaction shall report promptly to the director any changes or
5 replacement of its chief executive officer or of any director occurring
6 in the next twelve-month period, including in its report a statement of
7 the past and current business and professional affiliations of the new
8 chief executive officer or directors.

9 (4)(a) For a period of ten years following the acquisition of
10 control by any person, neither such acquiring party nor any associate
11 shall receive any loan or the use of any of the funds of, nor purchase,
12 lease, or otherwise receive any property from, nor receive any
13 consideration from the sale, lease, or any other conveyance of property
14 to, any savings bank in which the acquiring party has control except as
15 provided in (b) of this subsection.

16 (b) Upon application by any acquiring party or associate subject to
17 (a) of this subsection, the director may approve a transaction between
18 a converted savings bank and such acquiring party, person, or
19 associate, upon finding that the terms and conditions of the
20 transaction are at least as advantageous to the savings bank as the
21 savings bank would obtain in a comparable transaction with an
22 unaffiliated person.

23 (5) Except with the consent of the director, no converted savings
24 bank shall, for the purpose of enabling any person to purchase any or
25 all shares of its capital stock, pledge or otherwise transfer any of
26 its assets as security for a loan to such person or to any associate,
27 or pay any dividend to any such person or associate. Nothing in this
28 section shall prohibit a dividend of stock among shareholders in
29 proportion to their shareholdings. In the event any clause of this
30 section is declared to be unconstitutional or otherwise invalid, all
31 remaining dependent and independent clauses of this section shall
32 remain in full force and effect.

33 **Sec. 260.** RCW 32.32.275 and 1994 c 92 s 374 are each amended to
34 read as follows:

35 Should the applicant desire to submit any information it deems to
36 be of a confidential nature regarding any item or a part of any exhibit
37 included in any application under this chapter, the information

1 pertaining to the item or exhibit shall be separately bound and labeled
2 "confidential", and a statement shall be submitted therewith briefly
3 setting forth the grounds on which the information should be treated as
4 confidential. Only general reference thereto need be made in that
5 portion of the application which the applicant deems not to be
6 confidential. Applications under this chapter shall be made available
7 for inspection by the public, except for portions which are bound and
8 labeled "confidential" and which the director determines to withhold
9 from public availability under (~~RCW 42.17.250 through 42.17.340~~)
10 chapter 42.30 RCW. The applicant shall be advised of any decision by
11 the director to make public information designated as "confidential" by
12 the applicant. Even though sections of the application are considered
13 "confidential" as far as public inspection thereof is concerned, to the
14 extent the director deems necessary the director may comment on the
15 confidential submissions in any public statement in connection with the
16 director's decision on the application without prior notice to the
17 applicant.

18 **Sec. 261.** RCW 33.04.110 and 1994 c 92 s 425 are each amended to
19 read as follows:

20 (1) Except as otherwise provided in this section, all examination
21 reports and all information obtained by the director and the director's
22 staff in conducting examinations of associations are confidential and
23 privileged information and shall not be made public or otherwise
24 disclosed to any person, firm, corporation, agency, association,
25 governmental body, or other entity.

26 (2) Subsection (1) of this section notwithstanding, the director
27 may furnish in whole or in part examination reports prepared by the
28 director's office to federal agencies empowered to examine state
29 associations, to savings and loan supervisory agencies of other states
30 which have authority to examine associations doing business in this
31 state, to the attorney general in his or her role as legal advisor to
32 the director, to the examined association as provided in subsection (4)
33 of this section, and to officials empowered to investigate criminal
34 charges. If the director furnishes any examination report to officials
35 empowered to investigate criminal charges, the director may only
36 furnish that part of the report which is necessary and pertinent to the
37 investigation, and the director may do this only after notifying the

1 affected savings and loan association and any customer of the savings
2 and loan association who is named in that part of the report of the
3 order to furnish the part of the examination report unless the
4 officials requesting the report first obtain a waiver of the notice
5 requirement from a court of competent jurisdiction for good cause. The
6 director may also furnish in whole or in part examination reports
7 concerning any association in danger of insolvency to the directors or
8 officers of a potential acquiring party when, in the director's
9 opinion, it is necessary to do so in order to protect the interests of
10 members, depositors, or borrowers of the examined association.

11 (3) All examination reports furnished under subsection (2) of this
12 section shall remain the property of the department of financial
13 institutions and, except as provided in subsection (4) of this section,
14 no person, agency, or authority to whom reports are furnished or any
15 officer, director, or employee thereof shall disclose or make public
16 any of the reports or any information contained therein except in
17 published statistical material that does not disclose the affairs of
18 any individual or corporation: PROVIDED, That nothing herein shall
19 prevent the use in a criminal prosecution of reports furnished under
20 subsection (2) of this section.

21 (4) The examination report made by the department of financial
22 institutions is designed for use in the supervision of the association,
23 and the director may furnish a copy of the report to the savings and
24 loan association examined. The report shall remain the property of the
25 director and will be furnished to the association solely for its
26 confidential use. Neither the association nor any of its directors,
27 officers, or employees may disclose or make public in any manner the
28 report or any portion thereof without permission of the board of
29 directors of the examined association. The permission shall be entered
30 in the minutes of the board.

31 (5) Examination reports and information obtained by the director
32 and the director's staff in conducting examinations shall not be
33 subject to public disclosure under chapter ((42.17)) 42.30 RCW.

34 (6) In any civil action in which the reports are sought to be
35 discovered or used as evidence, any party may, upon notice to the
36 director, petition the court for an in camera review of the report.
37 The court may permit discovery and introduction of only those portions

1 of the report which are relevant and otherwise unobtainable by the
2 requesting party. This subsection shall not apply to an action brought
3 or defended by the director.

4 (7) This section shall not apply to investigation reports prepared
5 by the director and the director's staff concerning an application for
6 a new association or an application for a branch of an association.
7 The director may adopt rules making confidential portions of such
8 reports if in the director's opinion the public disclosure of the
9 portions of the report would impair the ability to obtain the
10 information which the director considers necessary to fully evaluate
11 the application.

12 (8) Every person who intentionally violates any provision of this
13 section is guilty of a gross misdemeanor.

14 **Sec. 262.** RCW 34.05.325 and 1998 c 125 s 1 are each amended to
15 read as follows:

16 (1) The agency shall make a good faith effort to insure that the
17 information on the proposed rule published pursuant to RCW 34.05.320
18 accurately reflects the rule to be presented and considered at the oral
19 hearing on the rule. Written comment about a proposed rule, including
20 supporting data, shall be accepted by an agency if received no later
21 than the time and date specified in the notice, or such later time and
22 date established at the rule-making hearing.

23 (2) The agency shall provide an opportunity for oral comment to be
24 received by the agency in a rule-making hearing.

25 (3) If the agency possesses equipment capable of receiving
26 telefacsimile transmissions or recorded telephonic communications, the
27 agency may provide in its notice of hearing filed under RCW 34.05.320
28 that interested parties may comment on proposed rules by these means.
29 If the agency chooses to receive comments by these means, the notice of
30 hearing shall provide instructions for making such comments, including,
31 but not limited to, appropriate telephone numbers to be used; the date
32 and time by which comments must be received; required methods to verify
33 the receipt and authenticity of the comments; and any limitations on
34 the number of pages for telefacsimile transmission comments and on the
35 minutes of tape recorded comments. The agency shall accept comments
36 received by these means for inclusion in the official record if the
37 comments are made in accordance with the agency's instructions.

1 (4) The agency head, a member of the agency head, or a presiding
2 officer designated by the agency head shall preside at the rule-making
3 hearing. Rule-making hearings shall be open to the public. The agency
4 shall cause a record to be made of the hearing by stenographic,
5 mechanical, or electronic means. Regardless of whether the agency head
6 has delegated rule-making authority, the presiding official shall
7 prepare a memorandum for consideration by the agency head, summarizing
8 the contents of the presentations made at the rule-making hearing,
9 unless the agency head presided or was present at substantially all of
10 the hearings. The summarizing memorandum is a public document and
11 shall be made available to any person in accordance with chapter
12 ((42.17)) 42.30 RCW.

13 (5) Rule-making hearings are legislative in character and shall be
14 reasonably conducted by the presiding official to afford interested
15 persons the opportunity to present comment. Rule-making hearings may
16 be continued to a later time and place established on the record
17 without publication of further notice under RCW 34.05.320.

18 (6)(a) Before it files an adopted rule with the code reviser, an
19 agency shall prepare a concise explanatory statement of the rule:

20 (i) Identifying the agency's reasons for adopting the rule;

21 (ii) Describing differences between the text of the proposed rule
22 as published in the register and the text of the rule as adopted, other
23 than editing changes, stating the reasons for differences; and

24 (iii) Summarizing all comments received regarding the proposed
25 rule, and responding to the comments by category or subject matter,
26 indicating how the final rule reflects agency consideration of the
27 comments, or why it fails to do so.

28 (b) The agency shall provide the concise explanatory statement to
29 any person upon request or from whom the agency received comment.

30 **Sec. 263.** RCW 35.02.130 and 1997 c 361 s 11 are each amended to
31 read as follows:

32 The city or town officially shall become incorporated at a date
33 from one hundred eighty days to three hundred sixty days after the date
34 of the election on the question of incorporation. An interim period
35 shall exist between the time the newly elected officials have been
36 elected and qualified and this official date of incorporation. During
37 this interim period, the newly elected officials are authorized to

1 adopt ordinances and resolutions which shall become effective on or
2 after the official date of incorporation, and to enter into contracts
3 and agreements to facilitate the transition to becoming a city or town
4 and to ensure a continuation of governmental services after the
5 official date of incorporation. Periods of time that would be required
6 to elapse between the enactment and effective date of such ordinances,
7 including but not limited to times for publication or for filing
8 referendums, shall commence upon the date of such enactment as though
9 the city or town were officially incorporated.

10 During this interim period, the city or town governing body may
11 adopt rules establishing policies and procedures under the state
12 environmental policy act, chapter 43.21C RCW, and may use these rules
13 and procedures in making determinations under the state environmental
14 policy act, chapter 43.21C RCW.

15 During this interim period, the newly formed city or town and its
16 governing body shall be subject to the following as though the city or
17 town were officially incorporated: RCW 4.24.470 relating to immunity;
18 chapters 42.17 and 42.30 RCW relating to open government; chapter 40.14
19 RCW relating to the preservation and disposition of public records;
20 chapters 42.20 and 42.23 RCW relating to ethics and conflicts of
21 interest; chapters 42.30 and 42.32 RCW relating to open public meetings
22 and minutes; RCW 35.22.288, 35.23.221, 35.27.300, 35A.12.160, as
23 appropriate, and chapter 35A.65 RCW relating to the publication of
24 notices and ordinances; RCW 35.21.875 and 35A.21.230 relating to the
25 designation of an official newspaper; RCW 36.16.138 relating to
26 liability insurance; RCW 35.22.620, 35.23.352, and 35A.40.210, as
27 appropriate, and statutes referenced therein relating to public
28 contracts and bidding; and chapter 39.34 RCW relating to interlocal
29 cooperation. Tax anticipation or revenue anticipation notes or
30 warrants and other short-term obligations may be issued and funds may
31 be borrowed on the security of these instruments during this interim
32 period, as provided in chapter 39.50 RCW. Funds also may be borrowed
33 from federal, state, and other governmental agencies in the same manner
34 as if the city or town were officially incorporated.

35 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may
36 be applicable, and the governing body of such city or town may take
37 appropriate action by ordinance during the interim period to adopt the

1 property tax levy for its first full calendar year following the
2 interim period.

3 The governing body of the new city or town may acquire needed
4 facilities, supplies, equipment, insurance, and staff during this
5 interim period as if the city or town were in existence. An interim
6 city manager or administrator, who shall have such administrative
7 powers and duties as are delegated by the governing body, may be
8 appointed to serve only until the official date of incorporation.
9 After the official date of incorporation the governing body of such a
10 new city organized under the council manager form of government may
11 extend the appointment of such an interim manager or administrator with
12 such limited powers as the governing body determines, for up to ninety
13 days. This governing body may submit ballot propositions to the voters
14 of the city or town to authorize taxes to be collected on or after the
15 official date of incorporation, or authorize an annexation of the city
16 or town by a fire protection district or library district to be
17 effective immediately upon the effective date of the incorporation as
18 a city or town.

19 The boundaries of a newly incorporated city or town shall be deemed
20 to be established for purposes of RCW 84.09.030 on the date that the
21 results of the initial election on the question of incorporation are
22 certified or the first day of January following the date of this
23 election if the newly incorporated city or town does not impose
24 property taxes in the same year that the voters approve the
25 incorporation.

26 The newly elected officials shall take office immediately upon
27 their election and qualification with limited powers during this
28 interim period as provided in this section. They shall acquire their
29 full powers as of the official date of incorporation and shall continue
30 in office until their successors are elected and qualified at the next
31 general municipal election after the official date of incorporation:
32 PROVIDED, That if the date of the next general municipal election is
33 less than twelve months after the date of the first election of
34 councilmembers, those initially elected councilmembers shall serve
35 until their successors are elected and qualified at the next following
36 general municipal election as provided in RCW (~~29.04.170~~) 29A.20.040.
37 For purposes of this section, the general municipal election shall be

1 the date on which city and town general elections are held throughout
2 the state of Washington, pursuant to RCW ((~~29.13.020~~)) 29A.04.330.

3 In any newly incorporated city that has adopted the council-manager
4 form of government, the term of office of the mayor, during the interim
5 period only, shall be set by the council, and thereafter shall be as
6 provided by law.

7 The official date of incorporation shall be on a date from one
8 hundred eighty to three hundred sixty days after the date of the
9 election on the question of incorporation, as specified in a resolution
10 adopted by the governing body during this interim period. A copy of
11 the resolution shall be filed with the county legislative authority of
12 the county in which all or the major portion of the newly incorporated
13 city or town is located. If the governing body fails to adopt such a
14 resolution, the official date of incorporation shall be three hundred
15 sixty days after the date of the election on the question of
16 incorporation. The county legislative authority of the county in which
17 all or the major portion of the newly incorporated city or town is
18 located shall file a notice with the county assessor that the city or
19 town has been authorized to be incorporated immediately after the
20 favorable results of the election on the question of incorporation have
21 been certified. The county legislative authority shall file a notice
22 with the secretary of state that the city or town is incorporated as of
23 the official date of incorporation.

24 **Sec. 264.** RCW 35.21.228 and 1999 c 202 s 1 are each amended to
25 read as follows:

26 (1) Each city or town that owns or operates a rail fixed guideway
27 system as defined in RCW 81.104.015 shall submit a system safety and
28 security program plan for that guideway to the state department of
29 transportation by September 1, 1999, or at least three months before
30 beginning operations or instituting revisions to its plan. This plan
31 must describe the city's procedures for (a) reporting and investigating
32 reportable accidents, unacceptable hazardous conditions, and security
33 breaches, (b) submitting corrective action plans and annual safety and
34 security audit reports, (c) facilitating on-site safety and security
35 reviews by the state department of transportation, and (d) addressing
36 passenger and employee security. The plan must, at a minimum, conform
37 to the standards adopted by the state department of transportation. If

1 required by the department, the city or town shall revise its plan to
2 incorporate the department's review comments within sixty days after
3 their receipt, and resubmit its revised plan for review.

4 (2) Each city or town shall implement and comply with its system
5 safety and security program plan. The city or town shall perform
6 internal safety and security audits to evaluate its compliance with the
7 plan, and submit its audit schedule to the department of transportation
8 no later than December 15th each year. The city or town shall prepare
9 an annual report for its internal safety and security audits undertaken
10 in the prior year and submit it to the department no later than
11 February 15th. This annual report must include the dates the audits
12 were conducted, the scope of the audit activity, the audit findings and
13 recommendations, the status of any corrective actions taken as a result
14 of the audit activity, and the results of each audit in terms of the
15 adequacy and effectiveness of the plan.

16 (3) Each city or town shall notify the department of transportation
17 within twenty-four hours of an occurrence of a reportable accident,
18 unacceptable hazardous condition, or security breach. The department
19 may adopt rules further defining a reportable accident, unacceptable
20 hazardous condition, or security breach. The city or town shall
21 investigate all reportable accidents, unacceptable hazardous
22 conditions, or security breaches and provide a written investigation
23 report to the department within forty-five calendar days after the
24 reportable accident, unacceptable hazardous condition, or security
25 breach.

26 (4) The security section of the safety and security plan required
27 in subsection (1)(d) of this section is exempt from public disclosure
28 under chapter (~~(42.17)~~) 42.30 RCW. However, the activities and plans
29 as described in subsections (1)(a), (b), and (c), (2), and (3) of this
30 section are not subject to this exemption.

31 **Sec. 265.** RCW 35.21.759 and 1999 c 246 s 1 are each amended to
32 read as follows:

33 A public corporation, commission, or authority created under this
34 chapter, and officers and multimember governing body thereof, are
35 subject to general laws regulating local governments, multimember
36 governing bodies, and local governmental officials, including, but not
37 limited to, the requirement to be audited by the state auditor and

1 various accounting requirements provided under chapter 43.09 RCW, the
2 open public record requirements of chapter ((42.17)) 42.30 RCW, the
3 prohibition on using its facilities for campaign purposes under RCW
4 42.17.130, the open public meetings law of chapter 42.30 RCW, the code
5 of ethics for municipal officers under chapter 42.23 RCW, and the local
6 government whistleblower law under chapter 42.41 RCW.

7 **Sec. 266.** RCW 35.102.040 and 2003 c 79 s 4 are each amended to
8 read as follows:

9 (1)(a) The cities, working through the association of Washington
10 cities, shall form a model ordinance development committee made up of
11 a representative sampling of cities that as of July 27, 2003, impose a
12 business and occupation tax. This committee shall work through the
13 association of Washington cities to adopt a model ordinance on
14 municipal gross receipts business and occupation tax. The model
15 ordinance and subsequent amendments shall be adopted using a process
16 that includes opportunity for substantial input from business
17 stakeholders and other members of the public. Input shall be solicited
18 from statewide business associations and from local chambers of
19 commerce and downtown business associations in cities that levy a
20 business and occupation tax.

21 (b) The municipal research council shall contract to post the model
22 ordinance on an internet web site and to make paper copies available
23 for inspection upon request. The department of revenue and the
24 department of licensing shall post copies of or links to the model
25 ordinance on their internet web sites. Additionally, a city that
26 imposes a business and occupation tax must make copies of its ordinance
27 available for inspection and copying as provided in chapter ((42.17))
28 42.30 RCW.

29 (c) The definitions and tax classifications in the model ordinance
30 may not be amended more frequently than once every four years, however
31 the model ordinance may be amended at any time to comply with changes
32 in state law. Any amendment to a mandatory provision of the model
33 ordinance must be adopted with the same effective date by all cities.

34 (2) A city that imposes a business and occupation tax must adopt
35 the mandatory provisions of the model ordinance. The following
36 provisions are mandatory:

1 (a) A system of credits that meets the requirements of RCW
2 35.102.060 and a form for such use;

3 (b) A uniform, minimum small business tax threshold of at least the
4 equivalent of twenty thousand dollars in gross income annually. A city
5 may elect to deviate from this requirement by creating a higher
6 threshold or exemption but it shall not deviate lower than the level
7 required in this subsection. If a city has a small business threshold
8 or exemption in excess of that provided in this subsection as of
9 January 1, 2003, and chooses to deviate below the threshold or
10 exemption level that was in place as of January 1, 2003, the city must
11 notify all businesses licensed to do business within the city at least
12 one hundred twenty days prior to the potential implementation of a
13 lower threshold or exemption amount;

14 (c) Tax reporting frequencies that meet the requirements of RCW
15 35.102.070;

16 (d) Penalty and interest provisions that meet the requirements of
17 RCW 35.102.080 and 35.102.090;

18 (e) Claim periods that meet the requirements of RCW 35.102.100;

19 (f) Refund provisions that meet the requirements of RCW 35.102.110;
20 and

21 (g) Definitions, which at a minimum, must include the definitions
22 enumerated in RCW 35.102.030 and 35.102.120. The definitions in
23 chapter 82.04 RCW shall be used as the baseline for all definitions in
24 the model ordinance, and any deviation in the model ordinance from
25 these definitions must be described by a comment in the model
26 ordinance.

27 (3) Except for the system of credits developed to address multiple
28 taxation under subsection (2)(a) of this section, a city may adopt its
29 own provisions for tax exemptions, tax credits, and tax deductions.

30 (4) Any city that adopts an ordinance that deviates from the
31 nonmandatory provisions of the model ordinance shall make a description
32 of such differences available to the public, in written and electronic
33 form.

34 **Sec. 267.** RCW 35A.21.300 and 1999 c 202 s 2 are each amended to
35 read as follows:

36 (1) Each code city that owns or operates a rail fixed guideway
37 system as defined in RCW 81.104.015 shall submit a system safety and

1 security program plan for that guideway to the state department of
2 transportation by September 1, 1999, or at least three months before
3 beginning operations or instituting revisions to its plan. This plan
4 must describe the code city's procedures for (a) reporting and
5 investigating reportable accidents, unacceptable hazardous conditions,
6 and security breaches, (b) submitting corrective action plans and
7 annual safety and security audit reports, (c) facilitating on-site
8 safety and security reviews by the state department of transportation,
9 and (d) addressing passenger and employee security. The plan must, at
10 a minimum, conform to the standards adopted by the state department of
11 transportation. If required by the department, the code city shall
12 revise its plan to incorporate the department's review comments within
13 sixty days after their receipt, and resubmit its revised plan for
14 review.

15 (2) Each code city shall implement and comply with its system
16 safety and security program plan. The code city shall perform internal
17 safety and security audits to evaluate its compliance with the plan,
18 and submit its audit schedule to the department of transportation no
19 later than December 15th each year. The code city shall prepare an
20 annual report for its internal safety and security audits undertaken in
21 the prior year and submit it to the department no later than February
22 15th. This annual report must include the dates the audits were
23 conducted, the scope of the audit activity, the audit findings and
24 recommendations, the status of any corrective actions taken as a result
25 of the audit activity, and the results of each audit in terms of the
26 adequacy and effectiveness of the plan.

27 (3) Each code city shall notify the department of transportation
28 within twenty-four hours of an occurrence of a reportable accident,
29 unacceptable hazardous condition, or security breach. The department
30 may adopt rules further defining a reportable accident, unacceptable
31 hazardous condition, or security breach. The code city shall
32 investigate all reportable accidents, unacceptable hazardous
33 conditions, or security breaches and provide a written investigation
34 report to the department within forty-five calendar days after the
35 reportable accident, unacceptable hazardous condition, or security
36 breach.

37 (4) The security section of the safety and security plan required
38 in subsection (1)(d) of this section is exempt from public disclosure

1 under chapter ((42.17)) 42.30 RCW. However, the activities and plans
2 as described in subsections (1)(a), (b), and (c), (2), and (3) of this
3 section are not subject to this exemption.

4 **Sec. 268.** RCW 36.01.210 and 1999 c 202 s 3 are each amended to
5 read as follows:

6 (1) Each county functioning under chapter 36.56 RCW that owns or
7 operates a rail fixed guideway system as defined in RCW 81.104.015
8 shall submit a system safety and security program plan for that
9 guideway to the state department of transportation by September 1,
10 1999, or at least three months before beginning operations or
11 instituting revisions to its plan. This plan must describe the
12 county's procedures for (a) reporting and investigating reportable
13 accidents, unacceptable hazardous conditions, and security breaches,
14 (b) submitting corrective action plans and annual safety and security
15 audit reports, (c) facilitating on-site safety and security reviews by
16 the state department of transportation, and (d) addressing passenger
17 and employee security. The plan must, at a minimum, conform to the
18 standards adopted by the state department of transportation. If
19 required by the department, the county shall revise its plan to
20 incorporate the department's review comments within sixty days after
21 their receipt, and resubmit its revised plan for review.

22 (2) Each county functioning under chapter 36.56 RCW shall implement
23 and comply with its system safety and security program plan. The
24 county shall perform internal safety and security audits to evaluate
25 its compliance with the plan, and submit its audit schedule to the
26 department of transportation no later than December 15th each year.
27 The county shall prepare an annual report for its internal safety and
28 security audits undertaken in the prior year and submit it to the
29 department no later than February 15th. This annual report must
30 include the dates the audits were conducted, the scope of the audit
31 activity, the audit findings and recommendations, the status of any
32 corrective actions taken as a result of the audit activity, and the
33 results of each audit in terms of the adequacy and effectiveness of the
34 plan.

35 (3) Each county shall notify the department of transportation
36 within twenty-four hours of an occurrence of a reportable accident,
37 unacceptable hazardous condition, or security breach. The department

1 may adopt rules further defining a reportable accident, unacceptable
2 hazardous condition, or security breach. The county shall investigate
3 all reportable accidents, unacceptable hazardous conditions, or
4 security breaches and provide a written investigation report to the
5 department within forty-five calendar days after the reportable
6 accident, unacceptable hazardous condition, or security breach.

7 (4) The security section of the safety and security plan required
8 in subsection (1)(d) of this section is exempt from public disclosure
9 under chapter (~~(42.17)~~) 42.30 RCW. However, the activities and plans
10 as described in subsections (1)(a), (b), and (c), (2), and (3) of this
11 section are not subject to this exemption.

12 **Sec. 269.** RCW 36.28A.060 and 2003 c 102 s 2 are each amended to
13 read as follows:

14 (1) When funded, the Washington association of sheriffs and police
15 chiefs shall create and operate a statewide first responder building
16 mapping information system.

17 (2) All state agencies and local governments must utilize building
18 mapping software that complies with the building mapping software
19 standards established under RCW 36.28A.070 for any building mapped for
20 this purpose after the statewide first responder building mapping
21 information system is operational. If, prior to creation of the
22 statewide building mapping information system, a local government has
23 utilized building mapping software standards established under RCW
24 36.28A.070, the local government may continue to use its own building
25 mapping system unless the Washington association of sheriffs and police
26 chiefs provides funding to bring the local government's system in
27 compliance with the standards established under RCW 36.28A.070.

28 (3) All state and local government-owned buildings that are
29 occupied by state or local government employees must be mapped when
30 funding is provided by the Washington association of sheriffs and
31 police chiefs, or from other sources. Nothing in chapter 102, Laws of
32 2003 requires any state agency or local government to map a building
33 unless the entire cost of mapping the building is provided by the
34 Washington association of sheriffs and police chiefs, or from other
35 sources.

36 (4) Once the statewide first responder building mapping information
37 system is operational, all state and local government buildings that

1 are mapped must forward their building mapping information data to the
2 Washington association of sheriffs and police chiefs. All
3 participating privately, federally, and tribally owned buildings may
4 voluntarily forward their mapping and emergency information data to the
5 Washington association of sheriffs and police chiefs. The Washington
6 association of sheriffs and police chiefs may refuse any building
7 mapping information that does not comply with the specifications
8 described in RCW 36.28A.070.

9 (5) Consistent with the guidelines developed under RCW 36.28A.070,
10 the Washington association of sheriffs and police chiefs shall
11 electronically make the building mapping information available to all
12 state, local, federal, and tribal law enforcement agencies, the
13 military department of Washington state, and fire departments.

14 (6) Consistent with the guidelines developed under RCW 36.28A.070,
15 the Washington association of sheriffs and police chiefs shall develop
16 building mapping software standards that must be used to participate in
17 the statewide first responder building mapping information system.

18 (7) The Washington association of sheriffs and police chiefs shall
19 pursue federal funds to:

20 (a) Create the statewide first responder building mapping
21 information system; and

22 (b) Develop grants for the mapping of all state and local
23 government buildings in the order determined under RCW 36.28A.070.

24 (8) All tactical and intelligence information provided to the
25 Washington association of sheriffs and police chiefs under chapter 102,
26 Laws of 2003 is exempt from public disclosure as provided in ((RCW
27 ~~42.17.310(1)(d))~~) section 404 of this act.

28 **Sec. 270.** RCW 36.57.120 and 1999 c 202 s 4 are each amended to
29 read as follows:

30 (1) Each county transportation authority that owns or operates a
31 rail fixed guideway system as defined in RCW 81.104.015 shall submit a
32 system safety and security program plan for that guideway to the state
33 department of transportation by September 1, 1999, or at least three
34 months before beginning operations or instituting revisions to its
35 plan. This plan must describe the county transportation authority's
36 procedures for (a) reporting and investigating reportable accidents,
37 unacceptable hazardous conditions, and security breaches, (b)

1 submitting corrective action plans and annual safety and security audit
2 reports, (c) facilitating on-site safety and security reviews by the
3 state department of transportation, and (d) addressing passenger and
4 employee security. The plan must, at a minimum, conform to the
5 standards adopted by the state department of transportation. If
6 required by the department, the county transportation authority shall
7 revise its plan to incorporate the department's review comments within
8 sixty days after their receipt, and resubmit its revised plan for
9 review.

10 (2) Each county transportation authority shall implement and comply
11 with its system safety and security program plan. The county
12 transportation authority shall perform internal safety and security
13 audits to evaluate its compliance with the plan, and submit its audit
14 schedule to the department of transportation no later than December
15 15th each year. The county transportation authority shall prepare an
16 annual report for its internal safety and security audits undertaken in
17 the prior year and submit it to the department no later than February
18 15th. This annual report must include the dates the audits were
19 conducted, the scope of the audit activity, the audit findings and
20 recommendations, the status of any corrective actions taken as a result
21 of the audit activity, and the results of each audit in terms of the
22 adequacy and effectiveness of the plan.

23 (3) Each county transportation authority shall notify the
24 department of transportation within twenty-four hours of an occurrence
25 of a reportable accident, unacceptable hazardous condition, or security
26 breach. The department may adopt rules further defining a reportable
27 accident, unacceptable hazardous condition, or security breach. The
28 county transportation authority shall investigate all reportable
29 accidents, unacceptable hazardous conditions, or security breaches and
30 provide a written investigation report to the department within forty-
31 five calendar days after the reportable accident, unacceptable
32 hazardous condition, or security breach.

33 (4) The security section of the safety and security plan required
34 in subsection (1)(d) of this section is exempt from public disclosure
35 under chapter (~~42.17~~) 42.30 RCW. However, the activities and plans
36 as described in subsections (1)(a), (b), and (c), (2), and (3) of this
37 section are not subject to this exemption.

1 **Sec. 271.** RCW 36.57A.170 and 1999 c 202 s 5 are each amended to
2 read as follows:

3 (1) Each public transportation benefit area that owns or operates
4 a rail fixed guideway system as defined in RCW 81.104.015 shall submit
5 a system safety and security program plan for that guideway to the
6 state department of transportation by September 1, 1999, or at least
7 three months before beginning operations or instituting revisions to
8 its plan. This plan must describe the public transportation benefit
9 area's procedures for (a) reporting and investigating reportable
10 accidents, unacceptable hazardous conditions, and security breaches,
11 (b) submitting corrective action plans and annual safety and security
12 audit reports, (c) facilitating on-site safety and security reviews by
13 the state department of transportation, and (d) addressing passenger
14 and employee security. The plan must, at a minimum, conform to the
15 standards adopted by the state department of transportation. If
16 required by the department, the public transportation benefit area
17 shall revise its plan to incorporate the department's review comments
18 within sixty days after their receipt, and resubmit its revised plan
19 for review.

20 (2) Each public transportation benefit area shall implement and
21 comply with its system safety and security program plan. The public
22 transportation benefit area shall perform internal safety and security
23 audits to evaluate its compliance with the plan, and submit its audit
24 schedule to the department of transportation no later than December
25 15th each year. The public transportation benefit area shall prepare
26 an annual report for its internal safety and security audits undertaken
27 in the prior year and submit it to the department no later than
28 February 15th. This annual report must include the dates the audits
29 were conducted, the scope of the audit activity, the audit findings and
30 recommendations, the status of any corrective actions taken as a result
31 of the audit activity, and the results of each audit in terms of the
32 adequacy and effectiveness of the plan.

33 (3) Each public transportation benefit area shall notify the
34 department of transportation within twenty-four hours of an occurrence
35 of a reportable accident, unacceptable hazardous condition, or security
36 breach. The department may adopt rules further defining a reportable
37 accident, unacceptable hazardous condition, or security breach. The
38 public transportation benefit area shall investigate all reportable

1 accidents, unacceptable hazardous conditions, or security breaches and
2 provide a written investigation report to the department within forty-
3 five calendar days after the reportable accident, unacceptable
4 hazardous condition, or security breach.

5 (4) The security section of the safety and security plan required
6 in subsection (1)(d) of this section is exempt from public disclosure
7 under chapter ((42.17)) 42.30 RCW. However, the activities and plans
8 as described in subsections (1)(a), (b), and (c), (2), and (3) of this
9 section are not subject to this exemption.

10 **Sec. 272.** RCW 36.70B.220 and 1996 c 206 s 9 are each amended to
11 read as follows:

12 (1) Each county and city having populations of ten thousand or more
13 that plan under RCW 36.70A.040 shall designate permit assistance staff
14 whose function it is to assist permit applicants. An existing employee
15 may be designated as the permit assistance staff.

16 (2) Permit assistance staff designated under this section shall:

17 (a) Make available to permit applicants all current local
18 government regulations and adopted policies that apply to the subject
19 application. The local government shall provide counter copies thereof
20 and, upon request, provide copies according to chapter ((42.17)) 42.30
21 RCW. The staff shall also publish and keep current one or more
22 handouts containing lists and explanations of all local government
23 regulations and adopted policies;

24 (b) Establish and make known to the public the means of obtaining
25 the handouts and related information; and

26 (c) Provide assistance regarding the application of the local
27 government's regulations in particular cases.

28 (3) Permit assistance staff designated under this section may
29 obtain technical assistance and support in the compilation and
30 production of the handouts under subsection (2) of this section from
31 the municipal research council and the department of community, trade,
32 and economic development.

33 **Sec. 273.** RCW 36.70C.120 and 1995 c 347 s 713 are each amended to
34 read as follows:

35 (1) When the land use decision being reviewed was made by a
36 quasi-judicial body or officer who made factual determinations in

1 support of the decision and the parties to the quasi-judicial
2 proceeding had an opportunity consistent with due process to make a
3 record on the factual issues, judicial review of factual issues and the
4 conclusions drawn from the factual issues shall be confined to the
5 record created by the quasi-judicial body or officer, except as
6 provided in subsections (2) through (4) of this section.

7 (2) For decisions described in subsection (1) of this section, the
8 record may be supplemented by additional evidence only if the
9 additional evidence relates to:

10 (a) Grounds for disqualification of a member of the body or of the
11 officer that made the land use decision, when such grounds were unknown
12 by the petitioner at the time the record was created;

13 (b) Matters that were improperly excluded from the record after
14 being offered by a party to the quasi-judicial proceeding; or

15 (c) Matters that were outside the jurisdiction of the body or
16 officer that made the land use decision.

17 (3) For land use decisions other than those described in subsection
18 (1) of this section, the record for judicial review may be supplemented
19 by evidence of material facts that were not made part of the local
20 jurisdiction's record.

21 (4) The court may require or permit corrections of ministerial
22 errors or inadvertent omissions in the preparation of the record.

23 (5) The parties may not conduct pretrial discovery except with the
24 prior permission of the court, which may be sought by motion at any
25 time after service of the petition. The court shall not grant
26 permission unless the party requesting it makes a prima facie showing
27 of need. The court shall strictly limit discovery to what is necessary
28 for equitable and timely review of the issues that are raised under
29 subsections (2) and (3) of this section. If the court allows the
30 record to be supplemented, the court shall require the parties to
31 disclose before the hearing or trial on the merits the specific
32 evidence they intend to offer. If any party, or anyone acting on
33 behalf of any party, requests records under chapter ((42.17)) 42.30 RCW
34 relating to the matters at issue, a copy of the request shall
35 simultaneously be given to all other parties and the court shall take
36 such request into account in fashioning an equitable discovery order
37 under this section.

1 **Sec. 274.** RCW 36.102.200 and 1997 c 220 s 119 are each amended to
2 read as follows:

3 The public stadium authority may refuse to disclose financial
4 information on the master tenant, concessioners, the team affiliate, or
5 subleasee under (~~RCW 42.17.310~~) section 407 of this act.

6 **Sec. 275.** RCW 39.10.100 and 1994 c 132 s 10 are each amended to
7 read as follows:

8 (1) Except as provided in subsection (2) of this section, all
9 proceedings, records, contracts, and other public records relating to
10 alternative public works transactions under this chapter shall be open
11 to the inspection of any interested person, firm, or corporation in
12 accordance with chapter (~~42.17~~) 42.30 RCW.

13 (2) Trade secrets, as defined in RCW 19.108.010, or other
14 proprietary information submitted by a bidder, offeror, or contractor
15 in connection with an alternative public works transaction under this
16 chapter shall not be subject to chapter (~~42.17~~) 42.30 RCW if the
17 bidder, offeror, or contractor specifically states in writing the
18 reasons why protection is necessary, and identifies the data or
19 materials to be protected.

20 **Sec. 276.** RCW 40.07.040 and 1977 ex.s. c 232 s 4 are each amended
21 to read as follows:

22 (1) The governor or the governor's designee shall take such other
23 action as may be necessary to maximize the economy, efficiency, and
24 effectiveness of state publications and to do so may eliminate,
25 consolidate, or simplify state agency publications.

26 (2) Nothing in this chapter shall be construed in any way as
27 restricting public access to public records or the public right to copy
28 such records as provided by (~~RCW 42.17.250 through 42.17.340 as now~~
29 ~~existing or hereafter amended~~) chapter 42.30 RCW.

30 **Sec. 277.** RCW 41.05.026 and 2003 c 277 s 2 are each amended to
31 read as follows:

32 (1) When soliciting proposals for the purpose of awarding contracts
33 for goods or services, the administrator shall, upon written request by
34 the bidder, exempt from public inspection and copying such proprietary
35 data, trade secrets, or other information contained in the bidder's

1 proposal that relate to the bidder's unique methods of conducting
2 business or of determining prices or premium rates to be charged for
3 services under terms of the proposal.

4 (2) When soliciting information for the development, acquisition,
5 or implementation of state purchased health care services, the
6 administrator shall, upon written request by the respondent, exempt
7 from public inspection and copying such proprietary data, trade
8 secrets, or other information submitted by the respondent that relate
9 to the respondent's unique methods of conducting business, data unique
10 to the product or services of the respondent, or to determining prices
11 or rates to be charged for services.

12 (3) Actuarial formulas, statistics, cost and utilization data, or
13 other proprietary information submitted upon request of the
14 administrator, board, or a technical review committee created to
15 facilitate the development, acquisition, or implementation of state
16 purchased health care under this chapter by a contracting insurer,
17 health care service contractor, health maintenance organization,
18 vendor, or other health services organization may be withheld at any
19 time from public inspection when necessary to preserve trade secrets or
20 prevent unfair competition.

21 (4) The board, or a technical review committee created to
22 facilitate the development, acquisition, or implementation of state
23 purchased health care under this chapter, may hold an executive session
24 in accordance with chapter 42.30 RCW during any regular or special
25 meeting to discuss information submitted in accordance with subsections
26 (1) through (3) of this section.

27 (5) A person who challenges a request for or designation of
28 information as exempt under this section is entitled to seek judicial
29 review pursuant to chapter ((42.17)) 42.30 RCW.

30 **Sec. 278.** RCW 41.06.160 and 2002 c 354 s 211 are each amended to
31 read as follows:

32 In preparing classification and salary schedules as set forth in
33 RCW 41.06.150 the department of personnel shall give full consideration
34 to prevailing rates in other public employment and in private
35 employment in this state. For this purpose the department shall
36 undertake comprehensive salary and fringe benefit surveys.

1 Salary and fringe benefit survey information collected from private
2 employers which identifies a specific employer with the salary and
3 fringe benefit rates which that employer pays to its employees shall
4 not be subject to public disclosure under chapter ((42.17)) 42.30 RCW.

5 **Sec. 279.** RCW 41.06.167 and 2002 c 354 s 212 are each amended to
6 read as follows:

7 The department of personnel shall undertake comprehensive
8 compensation surveys for officers and entry-level officer candidates of
9 the Washington state patrol, with such surveys to be conducted in the
10 year prior to the convening of every other one hundred five day regular
11 session of the state legislature. Salary and fringe benefit survey
12 information collected from private employers which identifies a
13 specific employer with the salary and fringe benefit rates which that
14 employer pays to its employees shall not be subject to public
15 disclosure under chapter ((42.17)) 42.30 RCW.

16 **Sec. 280.** RCW 41.06.450 and 2002 c 354 s 221 are each amended to
17 read as follows:

18 (1) The director shall adopt rules applicable to each agency to
19 ensure that information relating to employee misconduct or alleged
20 misconduct is destroyed or maintained as follows:

21 (a) All such information determined to be false and all such
22 information in situations where the employee has been fully exonerated
23 of wrongdoing, shall be promptly destroyed;

24 (b) All such information having no reasonable bearing on the
25 employee's job performance or on the efficient and effective management
26 of the agency, shall be promptly destroyed;

27 (c) All other information shall be retained only so long as it has
28 a reasonable bearing on the employee's job performance or on the
29 efficient and effective management of the agency.

30 (2) Notwithstanding subsection (1) of this section, an agency may
31 retain information relating to employee misconduct or alleged
32 misconduct if:

33 (a) The employee requests that the information be retained; or
34 (b) The information is related to pending legal action or legal
35 action may be reasonably expected to result.

1 (3) In adopting rules under this section, the director shall
2 consult with the public disclosure commission to ensure that the public
3 policy of the state, as expressed in chapters 42.17 and 42.30 RCW, is
4 adequately protected.

5 **Sec. 281.** RCW 41.06.455 and 1982 c 208 s 11 are each amended to
6 read as follows:

7 RCW 41.06.450 does not prohibit an agency from destroying
8 identifying information in records relating to employee misconduct or
9 alleged misconduct if the agency deems the action is consistent with
10 the policy expressed in RCW 41.06.450 and in chapter ((42.17)) 42.30
11 RCW.

12 **Sec. 282.** RCW 42.17.245 and 1983 c 213 s 1 are each amended to
13 read as follows:

14 After January 1st and before April 15th of each calendar year, the
15 state treasurer, each county, public utility district, and port
16 district treasurer, and each treasurer of an incorporated city or town
17 whose population exceeds one thousand shall file with the commission:

18 (1) A statement under oath that no public funds under that
19 treasurer's control were invested in any institution where the
20 treasurer or, in the case of a county, a member of the county finance
21 committee, held during the reporting period an office, directorship,
22 partnership interest, or ownership interest; or

23 (2) A report disclosing for the previous calendar year: (a) The
24 name and address of each financial institution in which the treasurer
25 or, in the case of a county, a member of the county finance committee,
26 held during the reporting period an office, directorship, partnership
27 interest, or ownership interest which holds or has held during the
28 reporting period public accounts of the governmental entity for which
29 the treasurer is responsible; (b) the aggregate sum of time and demand
30 deposits held in each such financial institution on December 31; and
31 (c) the highest balance held at any time during such reporting period:
32 PROVIDED, That the state treasurer shall disclose the highest balance
33 information only upon request under ((RCW 42.17.250 through 42.17.330))
34 chapter 42.30 RCW. The statement or report required by this section
35 shall be filed either with the statement required under RCW 42.17.240
36 or separately.

1 **Sec. 283.** RCW 42.17.251 and 1992 c 139 s 2 are each amended to
2 read as follows:

3 The people of this state do not yield their sovereignty to the
4 agencies that serve them. The people, in delegating authority, do not
5 give their public servants the right to decide what is good for the
6 people to know and what is not good for them to know. The people
7 insist on remaining informed so that they may maintain control over the
8 instruments that they have created. (~~The public records subdivision~~
9 ~~of~~) This chapter shall be liberally construed and its exemptions
10 narrowly construed to promote this public policy.

11 **Sec. 284.** RCW 42.17.260 and 1997 c 409 s 601 are each amended to
12 read as follows:

13 (1) Each agency, in accordance with published rules, shall make
14 available for public inspection and copying all public records, unless
15 the record falls within the specific exemptions of subsection (6) of
16 this section, (~~RCW 42.17.310, 42.17.315~~) this chapter, or other
17 statute which exempts or prohibits disclosure of specific information
18 or records. To the extent required to prevent an unreasonable invasion
19 of personal privacy interests protected by (~~RCW 42.17.310 and~~
20 ~~42.17.315~~) this chapter, an agency shall delete identifying details in
21 a manner consistent with (~~RCW 42.17.310 and 42.17.315~~) this chapter
22 when it makes available or publishes any public record; however, in
23 each case, the justification for the deletion shall be explained fully
24 in writing.

25 (2) For informational purposes, each agency shall publish and
26 maintain a current list containing every law, other than those listed
27 in this chapter, that the agency believes exempts or prohibits
28 disclosure of specific information or records of the agency. An
29 agency's failure to list an exemption shall not affect the efficacy of
30 any exemption.

31 (3) Each local agency shall maintain and make available for public
32 inspection and copying a current index providing identifying
33 information as to the following records issued, adopted, or promulgated
34 after January 1, 1973:

35 (a) Final opinions, including concurring and dissenting opinions,
36 as well as orders, made in the adjudication of cases;

1 (b) Those statements of policy and interpretations of policy,
2 statute, and the Constitution which have been adopted by the agency;

3 (c) Administrative staff manuals and instructions to staff that
4 affect a member of the public;

5 (d) Planning policies and goals, and interim and final planning
6 decisions;

7 (e) Factual staff reports and studies, factual consultant's reports
8 and studies, scientific reports and studies, and any other factual
9 information derived from tests, studies, reports, or surveys, whether
10 conducted by public employees or others; and

11 (f) Correspondence, and materials referred to therein, by and with
12 the agency relating to any regulatory, supervisory, or enforcement
13 responsibilities of the agency, whereby the agency determines, or
14 opines upon, or is asked to determine or opine upon, the rights of the
15 state, the public, a subdivision of state government, or of any private
16 party.

17 (4) A local agency need not maintain such an index, if to do so
18 would be unduly burdensome, but it shall in that event:

19 (a) Issue and publish a formal order specifying the reasons why and
20 the extent to which compliance would unduly burden or interfere with
21 agency operations; and

22 (b) Make available for public inspection and copying all indexes
23 maintained for agency use.

24 (5) Each state agency shall, by rule, establish and implement a
25 system of indexing for the identification and location of the following
26 records:

27 (a) All records issued before July 1, 1990, for which the agency
28 has maintained an index;

29 (b) Final orders entered after June 30, 1990, that are issued in
30 adjudicative proceedings as defined in RCW 34.05.010 and that contain
31 an analysis or decision of substantial importance to the agency in
32 carrying out its duties;

33 (c) Declaratory orders entered after June 30, 1990, that are issued
34 pursuant to RCW 34.05.240 and that contain an analysis or decision of
35 substantial importance to the agency in carrying out its duties;

36 (d) Interpretive statements as defined in RCW 34.05.010 that were
37 entered after June 30, 1990; and

1 (e) Policy statements as defined in RCW 34.05.010 that were entered
2 after June 30, 1990.

3 Rules establishing systems of indexing shall include, but not be
4 limited to, requirements for the form and content of the index, its
5 location and availability to the public, and the schedule for revising
6 or updating the index. State agencies that have maintained indexes for
7 records issued before July 1, 1990, shall continue to make such indexes
8 available for public inspection and copying. Information in such
9 indexes may be incorporated into indexes prepared pursuant to this
10 subsection. State agencies may satisfy the requirements of this
11 subsection by making available to the public indexes prepared by other
12 parties but actually used by the agency in its operations. State
13 agencies shall make indexes available for public inspection and
14 copying. State agencies may charge a fee to cover the actual costs of
15 providing individual mailed copies of indexes.

16 (6) A public record may be relied on, used, or cited as precedent
17 by an agency against a party other than an agency and it may be invoked
18 by the agency for any other purpose only if((—)):

19 (a) It has been indexed in an index available to the public; or

20 (b) Parties affected have timely notice (actual or constructive) of
21 the terms thereof.

22 (7) Each agency shall establish, maintain, and make available for
23 public inspection and copying a statement of the actual per page cost
24 or other costs, if any, that it charges for providing photocopies of
25 public records and a statement of the factors and manner used to
26 determine the actual per page cost or other costs, if any.

27 (a) In determining the actual per page cost for providing
28 photocopies of public records, an agency may include all costs directly
29 incident to copying such public records including the actual cost of
30 the paper and the per page cost for use of agency copying equipment.
31 In determining other actual costs for providing photocopies of public
32 records, an agency may include all costs directly incident to shipping
33 such public records, including the cost of postage or delivery charges
34 and the cost of any container or envelope used.

35 (b) In determining the actual per page cost or other costs for
36 providing copies of public records, an agency may not include staff
37 salaries, benefits, or other general administrative or overhead

1 charges, unless those costs are directly related to the actual cost of
2 copying the public records. Staff time to copy and mail the requested
3 public records may be included in an agency's costs.

4 (8) An agency need not calculate the actual per page cost or other
5 costs it charges for providing photocopies of public records if to do
6 so would be unduly burdensome, but in that event: The agency may not
7 charge in excess of fifteen cents per page for photocopies of public
8 records or for the use of agency equipment to photocopy public records
9 and the actual postage or delivery charge and the cost of any container
10 or envelope used to mail the public records to the requestor.

11 (9) This chapter shall not be construed as giving authority to any
12 agency, the office of the secretary of the senate, or the office of the
13 chief clerk of the house of representatives to give, sell or provide
14 access to lists of individuals requested for commercial purposes, and
15 agencies, the office of the secretary of the senate, and the office of
16 the chief clerk of the house of representatives shall not do so unless
17 specifically authorized or directed by law: PROVIDED, HOWEVER, That
18 lists of applicants for professional licenses and of professional
19 licensees shall be made available to those professional associations or
20 educational organizations recognized by their professional licensing or
21 examination board, upon payment of a reasonable charge therefor:
22 PROVIDED FURTHER, That such recognition may be refused only for a good
23 cause pursuant to a hearing under the provisions of chapter 34.05 RCW,
24 the Administrative Procedure Act.

25 **Sec. 285.** RCW 42.17.270 and 1987 c 403 s 4 are each amended to
26 read as follows:

27 Public records shall be available for inspection and copying, and
28 agencies shall, upon request for identifiable public records, make them
29 promptly available to any person. Agencies shall not distinguish among
30 persons requesting records, and such persons shall not be required to
31 provide information as to the purpose for the request except to
32 establish whether inspection and copying would violate RCW
33 42.17.260(~~(+5)~~) (9) (as recodified by this act) or other statute which
34 exempts or prohibits disclosure of specific information or records to
35 certain persons. Agency facilities shall be made available to any
36 person for the copying of public records except when and to the extent

1 that this would unreasonably disrupt the operations of the agency.
2 Agencies shall honor requests received by mail for identifiable public
3 records unless exempted by provisions of this chapter.

4 **Sec. 286.** RCW 42.17.305 and 1995 c 341 s 3 are each amended to
5 read as follows:

6 The provisions of RCW 42.17.260 (7) and (8) and 42.17.300 (each as
7 recodified by this act) that establish or allow agencies to establish
8 the costs charged for photocopies of public records do not supersede
9 other statutory provisions, other than in this chapter, authorizing or
10 governing fees for copying public records.

11 **Sec. 287.** RCW 42.17.311 and 1991 c 23 s 11 are each amended to
12 read as follows:

13 Nothing in (~~RCW 42.17.310(1) (t) through (v)~~) sections 405 and
14 413 of this act shall affect a positive duty of an agency to disclose
15 or a positive duty to withhold information which duty to disclose or
16 withhold is contained in any other law.

17 **Sec. 288.** RCW 42.17.340 and 1992 c 139 s 8 are each amended to
18 read as follows:

19 (1) Upon the motion of any person having been denied an opportunity
20 to inspect or copy a public record by an agency, the superior court in
21 the county in which a record is maintained may require the responsible
22 agency to show cause why it has refused to allow inspection or copying
23 of a specific public record or class of records. The burden of proof
24 shall be on the agency to establish that refusal to permit public
25 inspection and copying is in accordance with a statute that exempts or
26 prohibits disclosure in whole or in part of specific information or
27 records.

28 (2) Upon the motion of any person who believes that an agency has
29 not made a reasonable estimate of the time that the agency requires to
30 respond to a public record request, the superior court in the county in
31 which a record is maintained may require the responsible agency to show
32 that the estimate it provided is reasonable. The burden of proof shall
33 be on the agency to show that the estimate it provided is reasonable.

34 (3) Judicial review of all agency actions taken or challenged under
35 RCW 42.17.250 through 42.17.320 (as recodified by this act) shall be de

1 novo. Courts shall take into account the policy of this chapter that
2 free and open examination of public records is in the public interest,
3 even though such examination may cause inconvenience or embarrassment
4 to public officials or others. Courts may examine any record in camera
5 in any proceeding brought under this section. The court may conduct a
6 hearing based solely on affidavits.

7 (4) Any person who prevails against an agency in any action in the
8 courts seeking the right to inspect or copy any public record or the
9 right to receive a response to a public record request within a
10 reasonable amount of time shall be awarded all costs, including
11 reasonable attorney fees, incurred in connection with such legal
12 action. In addition, it shall be within the discretion of the court to
13 award such person an amount not less than five dollars and not to
14 exceed one hundred dollars for each day that he was denied the right to
15 inspect or copy said public record.

16 **Sec. 289.** RCW 42.17.341 and 1995 c 397 s 16 are each amended to
17 read as follows:

18 The procedures in RCW 42.17.340 (as recodified by this act) govern
19 denials of an opportunity to inspect or copy a public record by the
20 office of the secretary of the senate or the office of the chief clerk
21 of the house of representatives.

22 **Sec. 290.** RCW 42.17.348 and 1992 c 139 s 9 are each amended to
23 read as follows:

24 The attorney general's office shall publish, and update when
25 appropriate, a pamphlet, written in plain language, explaining (~~the~~
26 ~~provisions of the public records subdivision of~~) this chapter.

27 **Sec. 291.** RCW 42.17.945 and 1975-'76 2nd ex.s. c 112 s 15 are each
28 amended to read as follows:

29 The provisions of this 1976 amendatory act are intended to be
30 remedial and shall be liberally construed, and nothing in this 1976
31 amendatory act shall be construed to limit the power of the commission
32 under any other provision of chapter 42.17 or 42.30 RCW.

33 **Sec. 292.** RCW 42.48.030 and 1985 c 334 s 3 are each amended to
34 read as follows:

1 In addition to the copying charges provided in RCW 42.17.300 (as
2 recodified by this act), a state agency may impose a reasonable charge
3 for costs incurred in providing assistance in the following research
4 activities involving personal records:

5 (1) Manual or computer screening of personal records for scientific
6 sampling purposes according to specifications provided by the research
7 professional;

8 (2) Manual or computer extraction of information from a universe or
9 sample of personal records according to specifications provided by the
10 research professional;

11 (3) Statistical manipulation or analysis of personal record
12 information, whether manually or by computer, according to
13 specifications provided by the research professional.

14 The charges imposed by the agency may not exceed the amount
15 necessary to reimburse the agency for its actual costs in providing
16 requested research assistance.

17 **Sec. 293.** RCW 42.52.050 and 1996 c 213 s 4 are each amended to
18 read as follows:

19 (1) No state officer or state employee may accept employment or
20 engage in any business or professional activity that the officer or
21 employee might reasonably expect would require or induce him or her to
22 make an unauthorized disclosure of confidential information acquired by
23 the official or employee by reason of the official's or employee's
24 official position.

25 (2) No state officer or state employee may make a disclosure of
26 confidential information gained by reason of the officer's or
27 employee's official position or otherwise use the information for his
28 or her personal gain or benefit or the gain or benefit of another,
29 unless the disclosure has been authorized by statute or by the terms of
30 a contract involving (a) the state officer's or state employee's agency
31 and (b) the person or persons who have authority to waive the
32 confidentiality of the information.

33 (3) No state officer or state employee may disclose confidential
34 information to any person not entitled or authorized to receive the
35 information.

36 (4) No state officer or state employee may intentionally conceal a
37 record if the officer or employee knew the record was required to be

1 released under chapter ((42.17)) 42.30 RCW, was under a personal
2 obligation to release the record, and failed to do so. This subsection
3 does not apply where the decision to withhold the record was made in
4 good faith.

5 **Sec. 294.** RCW 42.52.810 and 2003 c 265 s 2 are each amended to
6 read as follows:

7 (1) When soliciting charitable gifts, grants, or donations solely
8 for the legislative international trade account created in RCW
9 44.04.270, the president of the senate is presumed not to be in
10 violation of the solicitation and receipt of gift provisions in RCW
11 42.52.140.

12 (2) When soliciting charitable gifts, grants, or donations solely
13 for the legislative international trade account created in RCW
14 44.04.270, state officers and state employees are presumed not to be in
15 violation of the solicitation and receipt of gift provisions in RCW
16 42.52.140.

17 (3) An annual report of the legislative international trade account
18 activities, including a list of receipts and expenditures, shall be
19 published by the president of the senate and submitted to the house of
20 representatives and the senate and be a public record for the purposes
21 of RCW 42.17.260 (as recodified by this act).

22 **Sec. 295.** RCW 43.06A.050 and 1996 c 131 s 6 are each amended to
23 read as follows:

24 The ombudsman shall treat all matters under investigation,
25 including the identities of service recipients, complainants, and
26 individuals from whom information is acquired, as confidential, except
27 as far as disclosures may be necessary to enable the ombudsman to
28 perform the duties of the office and to support any recommendations
29 resulting from an investigation. Upon receipt of information that by
30 law is confidential or privileged, the ombudsman shall maintain the
31 confidentiality of such information and shall not further disclose or
32 disseminate the information except as provided by applicable state or
33 federal law. Investigative records of the office of the ombudsman are
34 confidential and are exempt from public disclosure under chapter
35 ((42.17)) 42.30 RCW.

1 **Sec. 296.** RCW 43.21L.120 and 2003 c 393 s 13 are each amended to
2 read as follows:

3 (1) For all permit decisions being reviewed that were made by
4 quasi-judicial bodies or permit agency officers who made factual
5 determinations in support of the decisions, after the conduct of
6 proceedings in which the parties had an opportunity consistent with due
7 process to make records on the factual issues, board review of factual
8 issues and the conclusions drawn from the factual issues shall be
9 confined to the records created by the quasi-judicial bodies or permit
10 agency officers, except as provided in subsections (2) through (4) of
11 this section.

12 (2) For decisions described in subsection (1) of this section, the
13 records may be supplemented by additional evidence only if the
14 additional evidence relates to:

15 (a) Grounds for disqualification of a member of the body or of the
16 officer that made the permit decision, when such grounds were unknown
17 by the petitioner at the time the record was created;

18 (b) Matters that were improperly excluded from the record after
19 being offered by a party to a permit decision proceeding; or

20 (c) Matters that were outside the jurisdiction of the body or
21 officer that made the permit decision.

22 (3) For permit decisions other than those described in subsection
23 (1) of this section, the board review of the permit decision shall be
24 de novo on issues presented as error in the petition.

25 (4) The board may require or permit corrections of ministerial
26 errors or inadvertent omissions in the preparation of the record.

27 (5)(a) The parties may not conduct pretrial discovery except with
28 the prior permission of the board, which may be sought by motion,
29 subject to any applicable rules adopted by the board, at any time after
30 service of the petition. The board shall not grant permission unless
31 the party requesting it makes a prima facie showing of need. The board
32 shall strictly limit discovery to what is necessary for equitable and
33 timely review of the issues.

34 (b) If the board allows the record to be supplemented, or in any de
35 novo proceeding under subsection (3) of this section, the board shall
36 require the parties to disclose before the hearing or trial on the
37 merits the identity of witnesses and the specific evidence they intend
38 to offer.

1 (c) If any party, or anyone acting on behalf of any party, requests
2 records under chapter ((42.17)) 42.30 RCW relating to the matters at
3 issue, a copy of the request shall simultaneously be given to all other
4 parties, and the board shall take such request into account in
5 fashioning an equitable discovery order under this section.

6 **Sec. 297.** RCW 43.22.434 and 2004 c 137 s 1 are each amended to
7 read as follows:

8 (1) The director or the director's authorized representative may
9 conduct such inspections, investigations, and audits as may be
10 necessary to adopt or enforce manufactured and mobile home, commercial
11 coach, conversion vending units, medical units, recreational vehicle,
12 park trailer, factory built housing, and factory built commercial
13 structure rules adopted under the authority of this chapter or to carry
14 out the director's duties under this chapter.

15 (2) For purposes of enforcement of this chapter, persons duly
16 designated by the director upon presenting appropriate credentials to
17 the owner, operator, or agent in charge may:

18 (a) At reasonable times and without advance notice enter any
19 factory, warehouse, or establishment in which manufactured and mobile
20 homes, commercial coaches, conversion vending units, medical units,
21 recreational vehicles, park trailers, factory built housing, and
22 factory built commercial structures are manufactured, stored, or held
23 for sale;

24 (b) At reasonable times, within reasonable limits, and in a
25 reasonable manner inspect any factory, warehouse, or establishment as
26 required to comply with the standards adopted by the secretary of
27 housing and urban development under the national manufactured home
28 construction and safety standards act of 1974. Each inspection shall
29 be commenced and completed with reasonable promptness; and

30 (c) As requested by an owner of a conversion vending unit or
31 medical unit, inspect an alteration.

32 (3) For purposes of determining compliance with this chapter's
33 permitting requirements for alterations of mobile and manufactured
34 homes, the department may audit the records of a contractor as defined
35 in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor
36 as defined in RCW 19.28.006 when the department has reason to believe
37 that a violation of the permitting requirements has occurred. The

1 department shall adopt rules implementing the auditing procedures.
2 Information obtained from a contractor through an audit authorized by
3 this subsection is confidential and not open to public inspection under
4 chapter ((42.17)) 42.30 RCW.

5 (4)(a) The department shall set a schedule of fees by rule which
6 will cover the costs incurred by the department in the administration
7 of RCW 43.22.335 through 43.22.490. The department may waive
8 mobile/manufactured home alteration permit fees for indigent permit
9 applicants.

10 (b)(i) Until April 1, 2009, subject to (a) of this subsection, the
11 department may adopt by rule a temporary statewide fee schedule that
12 decreases fees for mobile/manufactured home alteration permits and
13 increases fees for factory-built housing and commercial structures plan
14 review and inspection services.

15 (ii) Effective April 1, 2009, the department must adopt a new fee
16 schedule that is the same as the fee schedule that was in effect
17 immediately prior to the temporary fee schedule authorized in (b)(i) of
18 this subsection. However, the new fee schedule must be adjusted by the
19 fiscal growth factors not applied during the period that the temporary
20 fee schedule was in effect.

21 **Sec. 298.** RCW 43.33A.025 and 2000 c 188 s 1 are each amended to
22 read as follows:

23 (1) Notwithstanding any provision of RCW 43.43.700 through
24 43.43.815, the state investment board shall require a criminal history
25 record check for conviction records through the Washington state patrol
26 criminal identification system, and through the federal bureau of
27 investigation, for the purpose of conducting preemployment evaluations
28 of each finalist candidate for a board staff position exempt from the
29 provisions of chapter 41.06 RCW, or for any other position in which the
30 employee will have authority for or access to: (a) Funds under the
31 jurisdiction or responsibility of the investment board; or (b) data or
32 security systems of the investment board or designs for such systems.
33 The record check shall include a fingerprint check using a complete
34 Washington state criminal identification fingerprint card, which shall
35 be forwarded by the state patrol to the federal bureau of
36 investigation.

1 (2) Information received by the investment board pursuant to this
2 section shall be made available by the investment board only to board
3 employees involved in the selection, hiring, background investigation,
4 or job assignment of the person who is the subject of the record check,
5 or to that subject person, and it shall be used only for the purposes
6 of making, supporting, or defending decisions regarding the appointment
7 or hiring of persons for these positions, or securing any necessary
8 bonds or other requirements for such employment. Otherwise, the
9 reports, and information contained therein, shall remain confidential
10 and shall not be subject to the disclosure requirements of chapter
11 ((42.17)) 42.30 RCW.

12 (3) Fees charged by the Washington state patrol, or the federal
13 bureau of investigation, for conducting these investigations and
14 providing these reports shall be paid by the investment board.

15 **Sec. 299.** RCW 43.43.856 and 2003 c 53 s 230 are each amended to
16 read as follows:

17 (1)(a) On and after April 26, 1973, it shall be unlawful for any
18 person to divulge specific investigative information pertaining to
19 activities related to organized crime which he or she has obtained by
20 reason of public employment with the state of Washington or its
21 political subdivisions unless such person is authorized or required to
22 do so by operation of state or federal law.

23 (b) Any person violating (a) of this subsection is guilty of a
24 class B felony punishable according to chapter 9A.20 RCW.

25 (2) Except as provided in RCW 43.43.854, or pursuant to the rules
26 of the supreme court of Washington, all of the information and data
27 collected and processed by the organized crime intelligence unit shall
28 be confidential and not subject to examination or publication pursuant
29 to chapter ((42.17)) 42.30 RCW ((~~Initiative Measure No. 276~~)).

30 (3) The chief of the Washington state patrol shall prescribe such
31 standards and procedures relating to the security of the records and
32 files of the organized crime intelligence unit, as he or she deems to
33 be in the public interest with the advice of the governor and the
34 board.

35 **Sec. 300.** RCW 43.52.570 and 1987 c 376 s 3 are each amended to
36 read as follows:

1 For the awarding of a contract to purchase any item or items of
2 materials, equipment, or supplies in an amount exceeding five thousand
3 dollars but less than seventy-five thousand dollars, exclusive of sales
4 tax, the managing director or a designee may, in lieu of sealed bids,
5 secure telephone and/or written quotations from at least five vendors,
6 where practical, and award contracts for purchase of materials,
7 equipment, or supplies to the lowest responsible bidder. The agency
8 shall establish a procurement roster, which shall consist of suppliers
9 and manufacturers who may supply materials or equipment to the
10 operating agency, and shall provide for solicitations which will
11 equitably distribute opportunity for bids among suppliers and
12 manufacturers on the roster. Immediately after the award is made, the
13 bid quotations obtained shall be recorded and shall be posted or
14 otherwise made available for public inspection and copying pursuant to
15 chapter ((42.17)) 42.30 RCW at the office of the operating agency or
16 any other officially designated location. Waiver of the deposit or bid
17 bond required for sealed bids may be authorized by the operating agency
18 in securing the bid quotations.

19 **Sec. 301.** RCW 43.52.612 and 1982 1st ex.s. c 44 s 5 are each
20 amended to read as follows:

21 A joint operating agency shall require that bids upon any
22 construction or improvement of any nuclear generating project and
23 associated facilities shall be made upon the contract bid form supplied
24 by the operating agency, and in no other manner. The operating agency
25 may, before furnishing any person, firm, or corporation desiring to bid
26 upon any work with a contract bid form, require from the person, firm,
27 or corporation, answers to questions contained in a standard form of
28 questionnaire and financial statement, including a complete statement
29 of the financial ability and experience of the person, firm, or
30 corporation in performing work. The questionnaire shall be sworn to
31 before a notary public or other person authorized to take
32 acknowledgement of deeds and shall be submitted once a year or at such
33 other times as the operating agency may require. Whenever the
34 operating agency is not satisfied with the sufficiency of the answers
35 contained in the questionnaire and financial statement or whenever the
36 operating agency determines that the person, firm, or corporation does
37 not meet all of the requirements set forth in this section, it may

1 refuse to furnish the person, firm, or corporation with a contract bid
2 form and any bid of the person, firm, or corporation must be
3 disregarded. The operating agency shall require that a person, firm,
4 or corporation have all of the following requirements in order to
5 obtain a contract form:

6 (1) Adequate financial resources, the ability to secure these
7 resources, or the capability to secure a one hundred percent payment
8 and performance bond;

9 (2) The necessary experience, organization, and technical
10 qualifications to perform the proposed contract;

11 (3) The ability to comply with the required performance schedule
12 taking into consideration all of its existing business commitments;

13 (4) A satisfactory record of performance, integrity, judgment, and
14 skills; and

15 (5) Be otherwise qualified and eligible to receive an award under
16 applicable laws and regulations.

17 The refusal shall be conclusive unless appealed to the superior
18 court of the county where the operating agency is situated or Thurston
19 county within fifteen days, which appeal shall be heard summarily
20 within ten days after the appeal is made and on five days' notice
21 thereof to the operating agency.

22 The prevailing party in such litigation shall be awarded its
23 attorney fees and costs.

24 The operating agency shall not be required to make available for
25 public inspection or copying under chapter ((42.17)) 42.30 RCW
26 financial information provided under this section.

27 **Sec. 302.** RCW 43.70.050 and 1989 1st ex.s. c 9 s 107 are each
28 amended to read as follows:

29 (1) The legislature intends that the department((~~7~~)) and board((~~7~~
30 ~~and council~~)) promote and assess the quality, cost, and accessibility
31 of health care throughout the state as their roles are specified in
32 chapter 9, Laws of 1989 1st ex. sess. in accordance with the provisions
33 of this chapter. In furtherance of this goal, the secretary shall
34 create an ongoing program of data collection, storage, assessability,
35 and review. The legislature does not intend that the department
36 conduct or contract for the conduct of basic research activity. The

1 secretary may request appropriations for studies according to this
2 section from the legislature, the federal government, or private
3 sources.

4 (2) All state agencies which collect or have access to population-
5 based, health-related data are directed to allow the secretary access
6 to such data. This includes, but is not limited to, data on needed
7 health services, facilities, and personnel; future health issues;
8 emerging bioethical issues; health promotion; recommendations from
9 state and national organizations and associations; and programmatic and
10 statutory changes needed to address emerging health needs. Private
11 entities, such as insurance companies, health maintenance
12 organizations, and private purchasers are also encouraged to give the
13 secretary access to such data in their possession. The secretary's
14 access to and use of all data shall be in accordance with state and
15 federal confidentiality laws and ethical guidelines. Such data in any
16 form where the patient or provider of health care can be identified
17 shall not be disclosed, subject to disclosure according to chapter
18 (~~42.17~~) 42.30 RCW, discoverable or admissible in judicial or
19 administrative proceedings. Such data can be used in proceedings in
20 which the use of the data is clearly relevant and necessary and both
21 the department and the patient or provider are parties.

22 (3) The department shall serve as the clearinghouse for information
23 concerning innovations in the delivery of health care services, the
24 enhancement of competition in the health care marketplace, and federal
25 and state information affecting health care costs.

26 (4) The secretary shall review any data collected, pursuant to this
27 chapter, to:

28 (a) Identify high-priority health issues that require study or
29 evaluation. Such issues may include, but are not limited to:

30 (i) Identification of variations of health practice which indicate
31 a lack of consensus of appropriateness;

32 (ii) Evaluation of outcomes of health care interventions to assess
33 their benefit to the people of the state;

34 (iii) Evaluation of specific population groups to identify needed
35 changes in health practices and services;

36 (iv) Evaluation of the risks and benefits of various incentives
37 aimed at individuals and providers for both preventing illnesses and
38 improving health services;

1 (v) Identification and evaluation of bioethical issues affecting
2 the people of the state; and

3 (vi) Other such objectives as may be appropriate;

4 (b) Further identify a list of high-priority health study issues
5 for consideration by the board (~~(or council)~~), within their authority,
6 for inclusion in the state health report required by RCW 43.20.050.
7 The list shall specify the objectives of each study, a study timeline,
8 the specific improvements in the health status of the citizens expected
9 as a result of the study, and the estimated cost of the study; and

10 (c) Provide background for the state health report required by RCW
11 43.20.050.

12 (5) Any data, research, or findings may also be made available to
13 the general public, including health professions, health associations,
14 the governor, professional boards and regulatory agencies and any
15 person or group who has allowed the secretary access to data.

16 (6) The secretary may charge a fee to persons requesting copies of
17 any data, research, or findings. The fee shall be no more than
18 necessary to cover the cost to the department of providing the copy.

19 **Sec. 303.** RCW 43.70.510 and 2004 c 145 s 2 are each amended to
20 read as follows:

21 (1)(a) Health care institutions and medical facilities, other than
22 hospitals, that are licensed by the department, professional societies
23 or organizations, health care service contractors, health maintenance
24 organizations, health carriers approved pursuant to chapter 48.43 RCW,
25 and any other person or entity providing health care coverage under
26 chapter 48.42 RCW that is subject to the jurisdiction and regulation of
27 any state agency or any subdivision thereof may maintain a coordinated
28 quality improvement program for the improvement of the quality of
29 health care services rendered to patients and the identification and
30 prevention of medical malpractice as set forth in RCW 70.41.200.

31 (b) All such programs shall comply with the requirements of RCW
32 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to
33 reflect the structural organization of the institution, facility,
34 professional societies or organizations, health care service
35 contractors, health maintenance organizations, health carriers, or any
36 other person or entity providing health care coverage under chapter
37 48.42 RCW that is subject to the jurisdiction and regulation of any

1 state agency or any subdivision thereof, unless an alternative quality
2 improvement program substantially equivalent to RCW 70.41.200(1)(a) is
3 developed. All such programs, whether complying with the requirement
4 set forth in RCW 70.41.200(1)(a) or in the form of an alternative
5 program, must be approved by the department before the discovery
6 limitations provided in subsections (3) and (4) of this section and the
7 exemption under (~~RCW 42.17.310(1)(hh)~~) section 416(1)(c) of this act
8 and subsection (5) of this section shall apply. In reviewing plans
9 submitted by licensed entities that are associated with physicians'
10 offices, the department shall ensure that the exemption under (~~RCW~~
11 ~~42.17.310(1)(hh)~~) section 416(1)(c) of this act and the discovery
12 limitations of this section are applied only to information and
13 documents related specifically to quality improvement activities
14 undertaken by the licensed entity.

15 (2) Health care provider groups of five or more providers may
16 maintain a coordinated quality improvement program for the improvement
17 of the quality of health care services rendered to patients and the
18 identification and prevention of medical malpractice as set forth in
19 RCW 70.41.200. All such programs shall comply with the requirements of
20 RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to
21 reflect the structural organization of the health care provider group.
22 All such programs must be approved by the department before the
23 discovery limitations provided in subsections (3) and (4) of this
24 section and the exemption under (~~RCW 42.17.310(1)(hh)~~) section
25 416(1)(c) of this act and subsection (5) of this section shall apply.

26 (3) Any person who, in substantial good faith, provides information
27 to further the purposes of the quality improvement and medical
28 malpractice prevention program or who, in substantial good faith,
29 participates on the quality improvement committee shall not be subject
30 to an action for civil damages or other relief as a result of such
31 activity. Any person or entity participating in a coordinated quality
32 improvement program that, in substantial good faith, shares information
33 or documents with one or more other programs, committees, or boards
34 under subsection (6) of this section is not subject to an action for
35 civil damages or other relief as a result of the activity or its
36 consequences. For the purposes of this section, sharing information is
37 presumed to be in substantial good faith. However, the presumption may

1 be rebutted upon a showing of clear, cogent, and convincing evidence
2 that the information shared was knowingly false or deliberately
3 misleading.

4 (4) Information and documents, including complaints and incident
5 reports, created specifically for, and collected, and maintained by a
6 quality improvement committee are not subject to discovery or
7 introduction into evidence in any civil action, and no person who was
8 in attendance at a meeting of such committee or who participated in the
9 creation, collection, or maintenance of information or documents
10 specifically for the committee shall be permitted or required to
11 testify in any civil action as to the content of such proceedings or
12 the documents and information prepared specifically for the committee.
13 This subsection does not preclude: (a) In any civil action, the
14 discovery of the identity of persons involved in the medical care that
15 is the basis of the civil action whose involvement was independent of
16 any quality improvement activity; (b) in any civil action, the
17 testimony of any person concerning the facts that form the basis for
18 the institution of such proceedings of which the person had personal
19 knowledge acquired independently of such proceedings; (c) in any civil
20 action by a health care provider regarding the restriction or
21 revocation of that individual's clinical or staff privileges,
22 introduction into evidence information collected and maintained by
23 quality improvement committees regarding such health care provider; (d)
24 in any civil action challenging the termination of a contract by a
25 state agency with any entity maintaining a coordinated quality
26 improvement program under this section if the termination was on the
27 basis of quality of care concerns, introduction into evidence of
28 information created, collected, or maintained by the quality
29 improvement committees of the subject entity, which may be under terms
30 of a protective order as specified by the court; (e) in any civil
31 action, disclosure of the fact that staff privileges were terminated or
32 restricted, including the specific restrictions imposed, if any and the
33 reasons for the restrictions; or (f) in any civil action, discovery and
34 introduction into evidence of the patient's medical records required by
35 rule of the department of health to be made regarding the care and
36 treatment received.

37 (5) Information and documents created specifically for, and

1 collected and maintained by a quality improvement committee are exempt
2 from disclosure under chapter ((42.17)) 42.30 RCW.

3 (6) A coordinated quality improvement program may share information
4 and documents, including complaints and incident reports, created
5 specifically for, and collected and maintained by a quality improvement
6 committee or a peer review committee under RCW 4.24.250 with one or
7 more other coordinated quality improvement programs maintained in
8 accordance with this section or with RCW 70.41.200 or a peer review
9 committee under RCW 4.24.250, for the improvement of the quality of
10 health care services rendered to patients and the identification and
11 prevention of medical malpractice. The privacy protections of chapter
12 70.02 RCW and the federal health insurance portability and
13 accountability act of 1996 and its implementing regulations apply to
14 the sharing of individually identifiable patient information held by a
15 coordinated quality improvement program. Any rules necessary to
16 implement this section shall meet the requirements of applicable
17 federal and state privacy laws. Information and documents disclosed by
18 one coordinated quality improvement program to another coordinated
19 quality improvement program or a peer review committee under RCW
20 4.24.250 and any information and documents created or maintained as a
21 result of the sharing of information and documents shall not be subject
22 to the discovery process and confidentiality shall be respected as
23 required by subsection (4) of this section and RCW 4.24.250.

24 (7) The department of health shall adopt rules as are necessary to
25 implement this section.

26 **Sec. 304.** RCW 44.05.080 and 1983 c 16 s 8 are each amended to read
27 as follows:

28 In addition to other duties prescribed by law, the commission
29 shall:

30 (1) Adopt rules pursuant to the Administrative Procedure Act,
31 chapter 34.05 RCW, to carry out the provisions of Article II, section
32 43 of the state Constitution and of this chapter, which rules shall
33 provide that three voting members of the commission constitute a quorum
34 to do business, and that the votes of three of the voting members are
35 required for any official action of the commission;

36 (2) Act as the legislature's recipient of the final redistricting
37 data and maps from the United States Bureau of the Census;

1 (3) Comply with requirements to disclose and preserve public
2 records as specified in chapters 40.14 and ((42.17)) 42.30 RCW;

3 (4) Hold open meetings pursuant to the open public meetings act,
4 chapter 42.30 RCW;

5 (5) Prepare and disclose its minutes pursuant to RCW 42.32.030;

6 (6) Be subject to the provisions of RCW 42.17.240;

7 (7) Prepare and publish a report with the plan; the report will be
8 made available to the public at the time the plan is published. The
9 report will include but will not be limited to: (a) The population and
10 percentage deviation from the average district population for every
11 district; (b) an explanation of the criteria used in developing the
12 plan with a justification of any deviation in a district from the
13 average district population; (c) a map of all the districts; and (d)
14 the estimated cost incurred by the counties for adjusting precinct
15 boundaries.

16 **Sec. 305.** RCW 46.12.380 and 1995 c 254 s 10 are each amended to
17 read as follows:

18 (1) Notwithstanding the provisions of chapter ((42.17)) 42.30 RCW,
19 the name or address of an individual vehicle owner shall not be
20 released by the department, county auditor, or agency or firm
21 authorized by the department except under the following circumstances:

22 (a) The requesting party is a business entity that requests the
23 information for use in the course of business;

24 (b) The request is a written request that is signed by the person
25 requesting disclosure that contains the full legal name and address of
26 the requesting party, that specifies the purpose for which the
27 information will be used; and

28 (c) The requesting party enters into a disclosure agreement with
29 the department in which the party promises that the party will use the
30 information only for the purpose stated in the request for the
31 information; and that the party does not intend to use, or facilitate
32 the use of, the information for the purpose of making any unsolicited
33 business contact with a person named in the disclosed information. The
34 term "unsolicited business contact" means a contact that is intended to
35 result in, or promote, the sale of any goods or services to a person
36 named in the disclosed information. The term does not apply to
37 situations where the requesting party and such person have been

1 involved in a business transaction prior to the date of the disclosure
2 request and where the request is made in connection with the
3 transaction.

4 (2) The disclosing entity shall retain the request for disclosure
5 for three years.

6 (3) Whenever the disclosing entity grants a request for information
7 under this section by an attorney or private investigator, the
8 disclosing entity shall provide notice to the vehicle owner, to whom
9 the information applies, that the request has been granted. The notice
10 also shall contain the name and address of the requesting party.

11 (4) Any person who is furnished vehicle owner information under
12 this section shall be responsible for assuring that the information
13 furnished is not used for a purpose contrary to the agreement between
14 the person and the department.

15 (5) This section shall not apply to requests for information by
16 governmental entities or requests that may be granted under any other
17 provision of this title expressly authorizing the disclosure of the
18 names or addresses of vehicle owners.

19 (6) This section shall not apply to title history information under
20 RCW 19.118.170.

21 **Sec. 306.** RCW 46.12.390 and 1990 c 232 s 3 are each amended to
22 read as follows:

23 (1) The department may review the activities of a person who
24 receives vehicle record information to ensure compliance with the
25 limitations imposed on the use of the information. The department
26 shall suspend or revoke for up to five years the privilege of obtaining
27 vehicle record information of a person found to be in violation of
28 chapter ((42.17)) 42.30 RCW, this chapter, or a disclosure agreement
29 executed with the department.

30 (2) In addition to the penalty in subsection (1) of this section:

31 (a) The unauthorized disclosure of information from a department
32 vehicle record; or

33 (b) The use of a false representation to obtain information from
34 the department's vehicle records; or

35 (c) The use of information obtained from the department vehicle
36 records for a purpose other than what is stated in the request for

1 information or in the disclosure agreement executed with the
2 department; or

3 (d) The sale or other distribution of any vehicle owner name or
4 address to another person not disclosed in the request or disclosure
5 agreement

6 is a gross misdemeanor punishable by a fine not to exceed ten thousand
7 dollars, or by imprisonment in a county jail not to exceed one year, or
8 by both such fine and imprisonment for each violation.

9 **Sec. 307.** RCW 46.20.041 and 1999 c 274 s 12 are each amended to
10 read as follows:

11 (1) If the department has reason to believe that a person is
12 suffering from a physical or mental disability or disease that may
13 affect that person's ability to drive a motor vehicle, the department
14 must evaluate whether the person is able to safely drive a motor
15 vehicle. As part of the evaluation:

16 (a) The department shall permit the person to demonstrate
17 personally that notwithstanding the disability or disease he or she is
18 able to safely drive a motor vehicle.

19 (b) The department may require the person to obtain a statement
20 signed by a licensed physician or other proper authority designated by
21 the department certifying the person's condition.

22 (i) The statement is for the confidential use of the director and
23 the chief of the Washington state patrol and for other public officials
24 designated by law. It is exempt from public inspection and copying
25 notwithstanding chapter ((42.17)) 42.30 RCW.

26 (ii) The statement may not be offered as evidence in any court
27 except when appeal is taken from the order of the director canceling or
28 withholding a person's driving privilege. However, the department may
29 make the statement available to the director of the department of
30 retirement systems for use in determining eligibility for or
31 continuance of disability benefits and it may be offered and admitted
32 as evidence in any administrative proceeding or court action concerning
33 the disability benefits.

34 (2) On the basis of the evaluation the department may:

35 (a) Issue or renew a driver's license to the person without
36 restrictions;

37 (b) Cancel or withhold the driving privilege from the person; or

1 (c) Issue a restricted driver's license to the person. The
2 restrictions must be suitable to the licensee's driving ability. The
3 restrictions may include:

4 (i) Special mechanical control devices on the motor vehicle
5 operated by the licensee;

6 (ii) Limitations on the type of motor vehicle that the licensee may
7 operate; or

8 (iii) Other restrictions determined by the department to be
9 appropriate to assure the licensee's safe operation of a motor vehicle.

10 (3) The department may either issue a special restricted license or
11 may set forth the restrictions upon the usual license form.

12 (4) The department may suspend or revoke a restricted license upon
13 receiving satisfactory evidence of any violation of the restrictions.
14 In that event the licensee is entitled to a driver improvement
15 interview and a hearing as provided by RCW 46.20.322 or 46.20.328.

16 (5) Operating a motor vehicle in violation of the restrictions
17 imposed in a restricted license is a traffic infraction.

18 **Sec. 308.** RCW 46.20.118 and 1990 c 250 s 37 are each amended to
19 read as follows:

20 The department shall maintain a negative file. It shall contain
21 negatives of all pictures taken by the department of licensing as
22 authorized by RCW 46.20.070 through 46.20.119. Negatives in the file
23 shall not be available for public inspection and copying under chapter
24 ((42.17)) 42.30 RCW. The department may make the file available to
25 official governmental enforcement agencies to assist in the
26 investigation by the agencies of suspected criminal activity. The
27 department may also provide a print to the driver's next of kin in the
28 event the driver is deceased.

29 **Sec. 309.** RCW 47.64.220 and 1999 c 256 s 1 are each amended to
30 read as follows:

31 (1) Prior to collective bargaining, the marine employees'
32 commission shall conduct a salary survey. The results of the survey
33 shall be published in a report which shall be a public document
34 comparing wages, hours, employee benefits, and conditions of employment
35 of involved ferry employees with those of public and private sector
36 employees in states along the west coast of the United States,

1 including Alaska, and in British Columbia doing directly comparable but
2 not necessarily identical work, giving consideration to factors
3 peculiar to the area and the classifications involved. Such survey
4 report shall be for the purpose of disclosing generally prevailing
5 levels of compensation, benefits, and conditions of employment. It
6 shall be used to guide generally but not to define or limit collective
7 bargaining between the parties. The commission shall make such other
8 findings of fact as the parties may request during bargaining or
9 impasse.

10 (2) Except as provided in subsection (3) of this section, salary
11 and employee benefit information collected from private employers that
12 identifies a specific employer with the salary and employee benefit
13 rates which that employer pays to its employees is not subject to
14 public disclosure under chapter (~~(42.17)~~) 42.30 RCW.

15 (3) A person or entity, having reason to believe that the salary
16 survey results are inaccurate, may submit a petition to the state
17 auditor requesting an audit of the data upon which the salary survey
18 results are based. The state auditor shall review and analyze all data
19 collected for the salary survey, including proprietary information, but
20 is prohibited from disclosing the salary survey data to any other
21 person or entity, except by court order.

22 **Sec. 310.** RCW 48.02.065 and 2001 c 57 s 1 are each amended to read
23 as follows:

24 (1) Documents, materials, or other information as described in
25 subsection (5) of this section are confidential by law and privileged,
26 are not subject to public disclosure under chapter (~~(42.17)~~) 42.30 RCW,
27 and are not subject to subpoena directed to the commissioner or any
28 person who received documents, materials, or other information while
29 acting under the authority of the commissioner. The commissioner is
30 authorized to use such documents, materials, or other information in
31 the furtherance of any regulatory or legal action brought as a part of
32 the commissioner's official duties. The confidentiality and privilege
33 created by this section and (~~(RCW 42.17.31916)~~) section 420(9) of this
34 act applies only to the commissioner, any person acting under the
35 authority of the commissioner, the national association of insurance
36 commissioners and its affiliates and subsidiaries, regulatory and law

1 enforcement officials of other states and nations, the federal
2 government, and international authorities.

3 (2) Neither the commissioner nor any person who received documents,
4 materials, or other information while acting under the authority of the
5 commissioner is permitted or required to testify in any private civil
6 action concerning any confidential and privileged documents, materials,
7 or information subject to subsection (1) of this section.

8 (3) The commissioner:

9 (a) May share documents, materials, or other information, including
10 the confidential and privileged documents, materials, or information
11 subject to subsection (1) of this section, with (i) the national
12 association of insurance commissioners and its affiliates and
13 subsidiaries, and (ii) regulatory and law enforcement officials of
14 other states and nations, the federal government, and international
15 authorities, if the recipient agrees to maintain the confidentiality
16 and privileged status of the document, material, or other information;

17 (b) May receive documents, materials, or information, including
18 otherwise either confidential or privileged, or both, documents,
19 materials, or information, from (i) the national association of
20 insurance commissioners and its affiliates and subsidiaries, and (ii)
21 regulatory and law enforcement officials of other states and nations,
22 the federal government, and international authorities and shall
23 maintain as confidential and privileged any document, material, or
24 information received that is either confidential or privileged, or
25 both, under the laws of the jurisdiction that is the source of the
26 document, material, or information; and

27 (c) May enter into agreements governing the sharing and use of
28 information consistent with this subsection.

29 (4) No waiver of an existing privilege or claim of confidentiality
30 in the documents, materials, or information may occur as a result of
31 disclosure to the commissioner under this section or as a result of
32 sharing as authorized in subsection (3) of this section.

33 (5) Documents, materials, or information, which is either
34 confidential or privileged, or both, which has been provided to the
35 commissioner by (a) the national association of insurance commissioners
36 and its affiliates and subsidiaries, (b) regulatory or law enforcement
37 officials of other states and nations, the federal government, or
38 international authorities, or (c) agencies of this state, is

1 confidential and privileged only if the documents, materials, or
2 information is protected from disclosure by the applicable laws of the
3 jurisdiction that is the source of the document, material, or
4 information.

5 **Sec. 311.** RCW 48.20.530 and 1991 c 87 s 7 are each amended to read
6 as follows:

7 For the purposes of this chapter, a nonresident pharmacy is defined
8 as any pharmacy located outside this state that ships, mails, or
9 delivers, in any manner, except when delivered in person to an enrolled
10 participant or his/her representative, controlled substances, legend
11 drugs, or devices into this state.

12 After October 1, 1991, an insurer providing coverage of
13 prescription drugs from nonresident pharmacies may only provide
14 coverage from licensed nonresident pharmacies. The insurers shall
15 obtain proof of current licensure in conformity with this section and
16 RCW 18.64.350 through 18.64.400 from the nonresident pharmacy and keep
17 that proof of licensure on file.

18 The department of health may request from the insurer the proof of
19 current licensure for all nonresident pharmacies through which the
20 insurer is providing coverage for prescription drugs to residents of
21 the state of Washington. This information, which may constitute a full
22 or partial customer list, shall be confidential and exempt from public
23 disclosure, and from the requirements of chapter ((42.17)) 42.30 RCW.
24 The board or the department shall not be restricted in the disclosure
25 of the name of a nonresident pharmacy that is or has been licensed
26 under RCW 18.64.360 or 18.64.370 or of the identity of a nonresident
27 pharmacy disciplined under RCW 18.64.350 through 18.64.400.

28 **Sec. 312.** RCW 48.21.330 and 1991 c 87 s 8 are each amended to read
29 as follows:

30 For the purposes of this chapter, a nonresident pharmacy is defined
31 as any pharmacy located outside this state that ships, mails, or
32 delivers, in any manner, except when delivered in person to an enrolled
33 participant or his/her representative, controlled substances, legend
34 drugs, or devices into this state.

35 After October 1, 1991, an insurer providing coverage of
36 prescription drugs from nonresident pharmacies may only provide

1 coverage from licensed nonresident pharmacies. The insurers shall
2 obtain proof of current licensure in conformity with this section and
3 RCW 18.64.350 through 18.64.400 from the nonresident pharmacy and keep
4 that proof of licensure on file.

5 The department may request from the insurer the proof of current
6 licensure for all nonresident pharmacies through which the insurer is
7 providing coverage for prescription drugs for residents of the state of
8 Washington. This information, which may constitute a full or partial
9 customer list, shall be confidential and exempt from public disclosure,
10 and from the requirements of chapter (~~42.17~~) 42.30 RCW. The board or
11 the department shall not be restricted in the disclosure of the name of
12 a nonresident pharmacy that is or has been licensed under RCW 18.64.360
13 or 18.64.370 or of the identity of a nonresident pharmacy disciplined
14 under RCW 18.64.350 through 18.64.400.

15 **Sec. 313.** RCW 48.30A.060 and 1995 c 285 s 12 are each amended to
16 read as follows:

17 Each insurer shall annually provide to the insurance commissioner
18 a summary report on actions taken under its antifraud plan to prevent
19 and combat insurance fraud. The report must also include, but not be
20 limited to, measures taken to protect and ensure the integrity of
21 electronic data processing-generated data and manually compiled data,
22 statistical data on the amount of resources committed to combatting
23 fraud, and the amount of fraud identified and recovered during the
24 reporting period. The antifraud plans and summary of the insurer's
25 antifraud activities are not public records and are exempt from chapter
26 (~~42.17~~) 42.30 RCW, are proprietary, are not subject to public
27 examination, and are not discoverable or admissible in civil
28 litigation.

29 **Sec. 314.** RCW 48.32A.185 and 2001 c 50 s 19 are each amended to
30 read as follows:

31 (1) No person, including an insurer, agent, or affiliate of an
32 insurer may make, publish, disseminate, circulate, or place before the
33 public, or cause directly or indirectly, to be made, published,
34 disseminated, circulated, or placed before the public, in any
35 newspaper, magazine, or other publication, or in the form of a notice,
36 circular, pamphlet, letter, or poster, or over any radio station or

1 television station, or in any other way, any advertisement,
2 announcement, or statement, written or oral, which uses the existence
3 of the insurance guaranty association of this state for the purpose of
4 sales, solicitation, or inducement to purchase any form of insurance
5 covered by the Washington life and disability insurance guaranty
6 association act. However, this section does not apply to the
7 Washington life and disability insurance guaranty association or any
8 other entity which does not sell or solicit insurance.

9 (2) Within one hundred eighty days after July 22, 2001, the
10 association shall prepare a summary document describing the general
11 purposes and current limitations of this chapter and complying with
12 subsection (3) of this section. This document must be submitted to the
13 commissioner for approval. The document must also be available upon
14 request by a policy owner. The distribution, delivery, contents, or
15 interpretation of this document does not guarantee that either the
16 policy or the contract or the owner of the policy or contract is
17 covered in the event of the impairment or insolvency of a member
18 insurer. The description document must be revised by the association
19 as amendments to this chapter may require. Failure to receive this
20 document does not give the policy owner, contract owner, certificate
21 holder, or insured any greater rights than those stated in this
22 chapter.

23 (3) The document prepared under subsection (2) of this section must
24 contain a clear and conspicuous disclaimer on its face. The
25 commissioner shall establish the form and content of the disclaimer.
26 The disclaimer must:

27 (a) State the name and address of the life and disability insurance
28 guaranty association and insurance department;

29 (b) Prominently warn the policy or contract owner that the life and
30 disability insurance guaranty association may not cover the policy or,
31 if coverage is available, it is subject to substantial limitations and
32 exclusions and conditioned on continued residence in this state;

33 (c) State the types of policies for which guaranty funds provide
34 coverage;

35 (d) State that the insurer and its agents are prohibited by law
36 from using the existence of the life and disability insurance guaranty
37 association for the purpose of sales, solicitation, or inducement to
38 purchase any form of insurance;

1 (e) State that the policy or contract owner should not rely on
2 coverage under the life and disability insurance guaranty association
3 when selecting an insurer;

4 (f) Explain rights available and procedures for filing a complaint
5 to allege a violation of any provisions of this chapter; and

6 (g) Provide other information as directed by the commissioner
7 including but not limited to, sources for information about the
8 financial condition of insurers provided that the information is not
9 proprietary and is subject to disclosure under chapter ((42.17)) 42.30
10 RCW.

11 (4) A member insurer must retain evidence of compliance with
12 subsection (2) of this section for as long as the policy or contract
13 for which the notice is given remains in effect.

14 **Sec. 315.** RCW 48.44.470 and 1991 c 87 s 9 are each amended to read
15 as follows:

16 For the purposes of this chapter, a nonresident pharmacy is defined
17 as any pharmacy located outside this state that ships, mails, or
18 delivers, in any manner, except when delivered in person to an enrolled
19 participant or his/her representative, controlled substances, legend
20 drugs, or devices into this state.

21 After October 1, 1991, a health care service contractor providing
22 coverage of prescription drugs from nonresident pharmacies may only
23 provide coverage from licensed nonresident pharmacies. The health care
24 service contractors shall obtain proof of current licensure in
25 conformity with this section and RCW 18.64.350 through 18.64.400 from
26 the nonresident pharmacy and keep that proof of licensure on file.

27 The department may request from the health care service contractor
28 the proof of current licensure for all nonresident pharmacies through
29 which the insurer is providing coverage for prescription drugs for
30 residents of the state of Washington. This information, which may
31 constitute a full or partial customer list, shall be confidential and
32 exempt from public disclosure, and from the requirements of chapter
33 ((42.17)) 42.30 RCW. The board or the department shall not be
34 restricted in the disclosure of the name of a nonresident pharmacy that
35 is or has been licensed under RCW 18.64.360 or 18.64.370 or of the
36 identity of a nonresident pharmacy disciplined under RCW 18.64.350
37 through 18.64.400.

1 **Sec. 316.** RCW 48.46.540 and 1991 c 87 s 10 are each amended to
2 read as follows:

3 For the purposes of this chapter, a nonresident pharmacy is defined
4 as any pharmacy located outside this state that ships, mails, or
5 delivers, in any manner, except when delivered in person to an enrolled
6 participant or his/her representative, controlled substances, legend
7 drugs, or devices into this state.

8 After October 1, 1991, a health maintenance organization providing
9 coverage of prescription drugs from nonresident pharmacies may only
10 provide coverage from licensed nonresident pharmacies. The health
11 maintenance organizations shall obtain proof of current licensure in
12 conformity with this section and RCW 18.64.350 through 18.64.400 from
13 the nonresident pharmacy and keep that proof of licensure on file.

14 The department may request from the health maintenance organization
15 the proof of current licensure for all nonresident pharmacies through
16 which the insurer is providing coverage for prescription drugs for
17 residents of the state of Washington. This information, which may
18 constitute a full or partial customer list, shall be confidential and
19 exempt from public disclosure, and from the requirements of chapter
20 ((42.17)) 42.30 RCW. The board or the department shall not be
21 restricted in the disclosure of the name of a nonresident pharmacy that
22 is or has been licensed under RCW 18.64.360 or 18.64.370 or of the
23 identity of a nonresident pharmacy disciplined under RCW 18.64.350
24 through 18.64.400.

25 **Sec. 317.** RCW 48.62.101 and 1991 sp.s. c 30 s 10 are each amended
26 to read as follows:

27 (1) All self-insurance programs governed by this chapter may
28 provide for executive sessions in accordance with chapter 42.30 RCW to
29 consider litigation and settlement of claims when it appears that
30 public discussion of these matters would impair the program's ability
31 to conduct its business effectively.

32 (2) Notwithstanding any provision to the contrary contained in the
33 public ((disclosure)) records act, chapter ((42.17)) 42.30 RCW, in a
34 claim or action against the state or a local government entity, no
35 person is entitled to discover that portion of any funds or liability
36 reserve established for purposes of satisfying a claim or cause of
37 action, except that the reserve is discoverable in a supplemental or

1 ancillary proceeding to enforce a judgment. All other records of
2 individual or joint self-insurance programs are subject to disclosure
3 in accordance with chapter ((42.17)) 42.30 RCW.

4 (3) In accordance with chapter ((42.17)) 42.30 RCW, bargaining
5 groups representing local government employees shall have reasonable
6 access to information concerning the experience and performance of any
7 health and welfare benefits program established for the benefit of such
8 employees.

9 **Sec. 318.** RCW 48.94.010 and 1993 c 462 s 24 are each amended to
10 read as follows:

11 (1) No person, firm, association, or corporation may act as a
12 reinsurance intermediary-broker in this state if the person, firm,
13 association, or corporation maintains an office either directly or as
14 a member or employee of a firm or association, or an officer, director,
15 or employee of a corporation:

16 (a) In this state, unless the person, firm, association, or
17 corporation is a licensed reinsurance intermediary-broker in this
18 state; or

19 (b) In another state, unless the person, firm, association, or
20 corporation is a licensed reinsurance intermediary-broker in this state
21 or another state having a regulatory scheme substantially similar to
22 this chapter.

23 (2) No person, firm, association, or corporation may act as a
24 reinsurance intermediary-manager:

25 (a) For a reinsurer domiciled in this state, unless the person,
26 firm, association, or corporation is a licensed reinsurance
27 intermediary-manager in this state;

28 (b) In this state, if the person, firm, association, or corporation
29 maintains an office either directly or as a member or employee of a
30 firm or association, or an officer, director, or employee of a
31 corporation in this state, unless the person, firm, association, or
32 corporation is a licensed reinsurance intermediary-manager in this
33 state;

34 (c) In another state for a nondomestic reinsurer, unless the
35 person, firm, association, or corporation is a licensed reinsurance
36 intermediary-manager in this state or another state having a
37 substantially similar regulatory scheme.

1 (3) The commissioner may require a reinsurance intermediary-manager
2 subject to subsection (2) of this section to:

3 (a) File a bond in an amount and from an insurer acceptable to the
4 commissioner for the protection of the reinsurer; and

5 (b) Maintain an errors and omissions policy in an amount acceptable
6 to the commissioner.

7 (4)(a) The commissioner may issue a reinsurance intermediary
8 license to a person, firm, association, or corporation who has complied
9 with the requirements of this chapter. Any such license issued to a
10 firm or association authorizes all the members of the firm or
11 association and any designated employees to act as reinsurance
12 intermediaries under the license, and all such persons may be named in
13 the application and any supplements to it. Any such license issued to
14 a corporation authorizes all of the officers, and any designated
15 employees and directors of it, to act as reinsurance intermediaries on
16 behalf of the corporation, and all such persons must be named in the
17 application and any supplements to it.

18 (b) If the applicant for a reinsurance intermediary license is a
19 nonresident, the applicant, as a condition precedent to receiving or
20 holding a license, shall designate the commissioner as agent for
21 service of process in the manner, and with the same legal effect,
22 provided for by this title for designation of service of process upon
23 unauthorized insurers, and also shall furnish the commissioner with the
24 name and address of a resident of this state upon whom notices or
25 orders of the commissioner or process affecting the nonresident
26 reinsurance intermediary may be served. The licensee shall promptly
27 notify the commissioner in writing of every change in its designated
28 agent for service of process, but the change does not become effective
29 until acknowledged by the commissioner.

30 (5) The commissioner may refuse to issue a reinsurance intermediary
31 license if, in his or her judgment, the applicant, anyone named on the
32 application, or a member, principal, officer, or director of the
33 applicant, is not trustworthy, or that a controlling person of the
34 applicant is not trustworthy to act as a reinsurance intermediary, or
35 that any of the foregoing has given cause for revocation or suspension
36 of the license, or has failed to comply with a prerequisite for the
37 issuance of such license. Upon written request, the commissioner will

1 furnish a summary of the basis for refusal to issue a license, which
2 document is privileged and not subject to chapter ((42.17)) 42.30 RCW.

3 (6) Licensed attorneys at law of this state when acting in their
4 professional capacity as such are exempt from this section.

5 **Sec. 319.** RCW 48.104.050 and 1999 c 8 s 5 are each amended to read
6 as follows:

7 (1) To facilitate the work of the Holocaust survivor assistance
8 office, the insurance commissioner may establish and maintain a central
9 registry containing records and information relating to insurance
10 policies, as described in RCW 48.104.060, of victims, living and
11 deceased, of the Holocaust. The registry shall be known as the
12 Holocaust insurance company registry. The insurance commissioner shall
13 establish standards and procedures to make the information in the
14 registry available to the public to the extent necessary and
15 appropriate to determine the existence of insurance policies and to
16 identify beneficiaries, successors in interest, or other persons
17 entitled to the proceeds of such policies, and to enable such persons
18 to claim proceeds to which they may be entitled, while protecting the
19 privacy of policyholders, their survivors, and their family members.
20 All information received by the Holocaust insurance company registry or
21 Holocaust survivor assistance office from any insurer, related company,
22 or foreign government or regulator shall be considered and deemed to be
23 matters and information relating to an examination and part of an
24 examination report that the insurance commissioner may treat as
25 confidential and withhold from public inspection under RCW
26 48.03.040(6)(c) and 48.03.050. To the extent necessary and appropriate
27 to secure access to documents and information located in or subject to
28 the jurisdiction of other states and countries, the insurance
29 commissioner is authorized to enter into agreements or to provide
30 assurances that any or all documents and information received from an
31 entity regulated by or subject to the laws of such other state or
32 country, or received from any agency of the government of any such
33 state or country, will be treated as confidential by the insurance
34 commissioner and will not be disclosed to any person except with the
35 approval of the appropriate authority of such state or country or
36 except as permitted or authorized by the laws of such state or country,
37 and any such agreement shall be binding and enforceable notwithstanding

1 chapter ((42.17)) 42.30 RCW. To the extent necessary and appropriate
2 to secure access to documents and information from or in the possession
3 of the international commission as to which the international
4 commission has given assurances of confidentiality or privacy, the
5 insurance commissioner is authorized to enter into agreements or to
6 provide assurances that any or all such documents and information will
7 be treated as confidential by the insurance commissioner and will not
8 be disclosed to any person except with the approval of the
9 international commission or as permitted by any agreement or assurances
10 given by the international commission, and any such agreement shall be
11 binding and enforceable notwithstanding chapter ((42.17)) 42.30 RCW.

12 (2) The insurance commissioner may cooperate and exchange
13 information with other states establishing similar registries and with
14 the international commission, and may enter into agreements whereby a
15 single registry may be established on behalf of, and to provide
16 services to the citizens and residents of, several states.

17 **Sec. 320.** RCW 50.13.015 and 1989 c 92 s 3 are each amended to read
18 as follows:

19 (1) If information provided to the department by another
20 governmental agency is held private and confidential by state or
21 federal laws, the department may not release such information.

22 (2) Information provided to the department by another governmental
23 entity conditioned upon privacy and confidentiality is to be held
24 private and confidential according to the agreement between the
25 department and other governmental agency.

26 (3) The department may hold private and confidential information
27 obtained for statistical analysis, research, or study purposes if the
28 information was supplied voluntarily, conditioned upon maintaining
29 confidentiality of the information.

30 (4) Persons requesting disclosure of information held by the
31 department under subsection (1) or (2) of this section shall request
32 such disclosure from the agency providing the information to the
33 department rather than from the department.

34 (5) This section supersedes any provisions of chapter ((42.17))
35 42.30 RCW to the contrary.

1 **Sec. 321.** RCW 50.13.030 and 1977 ex.s. c 153 s 3 are each amended
2 to read as follows:

3 The commissioner (~~((of the department of employment security))~~) shall
4 have the authority to adopt, amend, or rescind rules interpreting and
5 implementing the provisions of this chapter. In particular, these
6 rules shall specify the procedure to be followed to obtain information
7 or records to which the public has access under this chapter or chapter
8 (~~(42.17)~~) 42.30 RCW.

9 **Sec. 322.** RCW 50.13.040 and 1993 c 483 s 6 are each amended to
10 read as follows:

11 (1) An individual shall have access to all records and information
12 concerning that individual held by the (~~(department of)~~) employment
13 security department, unless the information is exempt from disclosure
14 under (~~(RCW 42.17.310)~~) section 421 of this act.

15 (2) An employing unit shall have access to its own records and to
16 any records and information relating to a benefit claim by an
17 individual if the employing unit is either the individual's last
18 employer or is the individual's base year employer.

19 (3) An employing unit shall have access to any records and
20 information relating to any decision to allow or deny benefits if:

21 (a) The decision is based on employment or an offer of employment
22 with the employing unit; or

23 (b) If the decision is based on material information provided by
24 the employing unit.

25 (4) An employing unit shall have access to general summaries of
26 benefit claims by individuals whose benefits are chargeable to the
27 employing unit's experience rating or reimbursement account.

28 **Sec. 323.** RCW 50.13.060 and 2003 c 165 s 3 are each amended to
29 read as follows:

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

35 (a) The agency submits an application in writing to the employment
36 security department for the records or information containing a

1 statement of the official purposes for which the information or records
2 are needed and specific identification of the records or information
3 sought from the department; and

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

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

22 (2) The requirements of subsections (1) and (9) of this section
23 shall not apply to the state legislative branch. The state legislature
24 shall have access to information or records deemed private and
25 confidential under this chapter, if the legislature or a legislative
26 committee finds that the information or records are necessary and for
27 official purposes. If the employment security department does not make
28 information or records available as provided in this subsection, the
29 legislature may exercise its authority granted by chapter 44.16 RCW.

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

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

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

23 (6) Governmental agencies may have access to certain records and
24 information, limited to employer information possessed by the
25 department for purposes authorized in chapter 50.38 RCW. Access to
26 these records and information is limited to only those individuals
27 conducting authorized statistical analysis, research, and evaluation
28 studies. Only in cases consistent with the purposes of chapter 50.38
29 RCW are government agencies not required to comply with subsection
30 (1)(c) of this section, but the requirements of the remainder of
31 subsection (1) of this section must be satisfied. Information provided
32 by the department and held to be private and confidential under state
33 or federal laws shall not be misused or released to unauthorized
34 parties subject to the sanctions in RCW 50.13.080.

35 (7) Disclosure to governmental agencies of information or records
36 obtained by the employment security department from the federal
37 government shall be governed by any applicable federal law or any

1 agreement between the federal government and the employment security
2 department where so required by federal law. When federal law does not
3 apply to the records or information state law shall control.

4 (8) The department may provide information for purposes of
5 statistical analysis and evaluation of the WorkFirst program or any
6 successor state welfare program to the department of social and health
7 services, the office of financial management, and other governmental
8 entities with oversight or evaluation responsibilities for the program
9 in accordance with RCW 43.20A.080. The confidential information
10 provided by the department shall remain the property of the department
11 and may be used by the authorized requesting agencies only for
12 statistical analysis, research, and evaluation purposes as provided in
13 RCW 74.08A.410 and 74.08A.420. The department of social and health
14 services, the office of financial management, or other governmental
15 entities with oversight or evaluation responsibilities for the program
16 are not required to comply with subsection (1)(c) of this section, but
17 the requirements of the remainder of subsection (1) of this section and
18 applicable federal laws and regulations must be satisfied. The
19 confidential information used for evaluation and analysis of welfare
20 reform supplied to the authorized requesting entities with regard to
21 the WorkFirst program or any successor state welfare program are exempt
22 from public inspection and copying under ((RCW 42.17.310)) chapter
23 42.30 RCW.

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

28 (10) In conducting periodic salary or fringe benefit studies
29 pursuant to law, the department of personnel shall have access to
30 records of the employment security department as may be required for
31 such studies. For such purposes, the requirements of subsection (1)(c)
32 of this section need not apply.

33 (11)(a) To promote the reemployment of job seekers, the
34 commissioner may enter into data-sharing contracts with partners of the
35 one-stop career development system. The contracts shall provide for
36 the transfer of data only to the extent that the transfer is necessary
37 for the efficient provisions of work force programs, including but not
38 limited to public labor exchange, unemployment insurance, worker

1 training and retraining, vocational rehabilitation, vocational
2 education, adult education, transition from public assistance, and
3 support services. The transfer of information under contracts with
4 one-stop partners is exempt from subsection (1)(c) of this section.

5 (b) An individual who applies for services from the department and
6 whose information will be shared under (a) of this subsection (11) must
7 be notified that his or her private and confidential information in the
8 department's records will be shared among the one-stop partners to
9 facilitate the delivery of one-stop services to the individual. The
10 notice must advise the individual that he or she may request that
11 private and confidential information not be shared among the one-stop
12 partners and the department must honor the request. In addition, the
13 notice must:

14 (i) Advise the individual that if he or she requests that private
15 and confidential information not be shared among one-stop partners, the
16 request will in no way affect eligibility for services;

17 (ii) Describe the nature of the information to be shared, the
18 general use of the information by one-stop partner representatives, and
19 among whom the information will be shared;

20 (iii) Inform the individual that shared information will be used
21 only for the purpose of delivering one-stop services and that further
22 disclosure of the information is prohibited under contract and is not
23 subject to disclosure under (~~RCW 42.17.310~~) chapter 42.30 RCW; and

24 (iv) Be provided in English and an alternative language selected by
25 the one-stop center or job service center as appropriate for the
26 community where the center is located.

27 If the notice is provided in-person, the individual who does not
28 want private and confidential information shared among the one-stop
29 partners must immediately advise the one-stop partner representative of
30 that decision. The notice must be provided to an individual who
31 applies for services telephonically, electronically, or by mail, in a
32 suitable format and within a reasonable time after applying for
33 services, which shall be no later than ten working days from the
34 department's receipt of the application for services. A one-stop
35 representative must be available to answer specific questions regarding
36 the nature, extent, and purpose for which the information may be
37 shared.

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

7 (13) The misuse or unauthorized release of records or information
8 by any person or organization to which access is permitted by this
9 chapter subjects the person or organization to a civil penalty of five
10 thousand dollars and other applicable sanctions under state and federal
11 law. Suit to enforce this section shall be brought by the attorney
12 general and the amount of any penalties collected shall be paid into
13 the employment security department administrative contingency fund.
14 The attorney general may recover reasonable attorneys' fees for any
15 action brought to enforce this section.

16 **Sec. 324.** RCW 50.13.080 and 1996 c 79 s 2 are each amended to read
17 as follows:

18 (1) The employment security department shall have the right to
19 disclose information or records deemed private and confidential under
20 this chapter to any private person or organization when such disclosure
21 is necessary to permit private contracting parties to assist in the
22 operation and management of the department in instances where certain
23 departmental functions may be delegated to private parties to increase
24 the department's efficiency or quality of service to the public. The
25 private persons or organizations shall use the information or records
26 solely for the purpose for which the information was disclosed and
27 shall be bound by the same rules of privacy and confidentiality as
28 employment security department employees.

29 (2) Nothing in this section shall be construed as limiting or
30 restricting the effect of RCW 42.17.260(9) (as recodified by this act).

31 (3) The misuse or unauthorized release of records or information
32 deemed private and confidential under this chapter by any private
33 person or organization to which access is permitted by this section
34 shall subject the person or organization to a civil penalty of five
35 thousand dollars and other applicable sanctions under state and federal
36 law. Suit to enforce this section shall be brought by the attorney
37 general and the amount of any penalties collected shall be paid into

1 the employment security department administrative contingency fund.
2 The attorney general may recover reasonable attorneys' fees for any
3 action brought to enforce this section.

4 **Sec. 325.** RCW 50.38.060 and 1993 c 62 s 6 are each amended to read
5 as follows:

6 To implement this chapter, the department has authority to:

7 (1) Establish mechanisms to recover actual costs incurred in
8 producing and providing otherwise nonfunded labor market information.

9 (a) If the commissioner, in his or her discretion, determines that
10 providing labor market information is in the public interest, the
11 requested information may be provided at reduced costs.

12 (b) The department shall provide access to labor market information
13 products that constitute public records available for public inspection
14 and copying under chapter ((42.17)) 42.30 RCW, at fees not exceeding
15 those allowed under RCW 42.17.300 (as recodified by this act) and
16 consistent with the department's fee schedule;

17 (2) Receive federal set aside funds from several federal programs
18 that are authorized to fund state and local labor market information
19 and are required to use such information in support of their programs;

20 (3) Enter into agreements with other public agencies for
21 statistical analysis, research, or evaluation studies of local, state,
22 and federally funded employment, training, education, and job creation
23 programs to increase the efficiency or quality of service provided to
24 the public consistent with chapter 50.13 RCW;

25 (4) Coordinate with other state agencies to study ways to
26 standardize federal and state multi-agency administrative records, such
27 as unemployment insurance information and other information to produce
28 employment, training, education, and economic analysis needed to
29 improve labor market information products and services; and

30 (5) Produce agricultural labor market information and economic
31 analysis needed to facilitate the efficient and effective matching of
32 the local supply and demand of agricultural labor critical to an
33 effective agricultural labor exchange in Washington state. Information
34 collected for an agricultural labor market information effort will be
35 coordinated with other federal, state, and local statistical agencies
36 to minimize reporting burden through cooperative data collection
37 efforts for statistical analysis, research, or studies.

1 **Sec. 326.** RCW 51.36.120 and 1989 c 189 s 2 are each amended to
2 read as follows:

3 When contracting for health care services and equipment, the
4 department, upon request of a contractor, shall keep confidential
5 financial and valuable trade information, which shall be exempt from
6 public inspection and copying under chapter (~~(42.17)~~) 42.30 RCW.

7 **Sec. 327.** RCW 52.14.100 and 1984 c 230 s 37 are each amended to
8 read as follows:

9 All meetings of the board of fire commissioners shall be conducted
10 in accordance with chapter 42.30 RCW and a majority constitutes a
11 quorum for the transaction of business. All records of the board shall
12 be open to inspection in accordance with (~~(the provisions of RCW~~
13 ~~42.17.250 through 42.17.340)~~) chapter 42.30 RCW. The board has the
14 power and duty to adopt a seal of the district, to manage and conduct
15 the business affairs of the district, to make and execute all necessary
16 contracts, to employ any necessary services, and to adopt reasonable
17 rules to govern the district and to perform its functions, and
18 generally to perform all such acts as may be necessary to carry out the
19 objects of the creation of the district.

20 **Sec. 328.** RCW 66.28.180 and 2004 c 269 s 1 and 2004 c 160 s 18 are
21 each reenacted and amended to read as follows:

22 It is unlawful for a person, firm, or corporation holding a
23 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
24 distributor's license, a domestic brewery license, a microbrewery
25 license, a beer importer's license, a beer distributor's license, a
26 domestic winery license, a wine importer's license, or a wine
27 distributor's license within the state of Washington to modify any
28 prices without prior notification to and approval of the board.

29 (1) Intent. This section is enacted, pursuant to the authority of
30 this state under the twenty-first amendment to the United States
31 Constitution, to promote the public's interest in fostering the orderly
32 and responsible distribution of malt beverages and wine towards
33 effective control of consumption; to promote the fair and efficient
34 three-tier system of distribution of such beverages; and to confirm
35 existing board rules as the clear expression of state policy to

1 regulate the manner of selling and pricing of wine and malt beverages
2 by licensed suppliers and distributors.

3 (2) Beer and wine distributor price posting.

4 (a) Every beer or wine distributor shall file with the board at its
5 office in Olympia a price posting showing the wholesale prices at which
6 any and all brands of beer and wine sold by such beer and/or wine
7 distributor shall be sold to retailers within the state.

8 (b) Each price posting shall be made on a form prepared and
9 furnished by the board, or a reasonable facsimile thereof, and shall
10 set forth:

11 (i) All brands, types, packages, and containers of beer offered for
12 sale by such beer and/or wine distributor;

13 (ii) The wholesale prices thereof to retail licensees, including
14 allowances, if any, for returned empty containers.

15 (c) No beer and/or wine distributor may sell or offer to sell any
16 package or container of beer or wine to any retail licensee at a price
17 differing from the price for such package or container as shown in the
18 price posting filed by the beer and/or wine distributor and then in
19 effect, according to rules adopted by the board.

20 (d) Quantity discounts are prohibited. No price may be posted that
21 is below acquisition cost plus ten percent of acquisition cost.
22 However, the board is empowered to review periodically, as it may deem
23 appropriate, the amount of the percentage of acquisition cost as a
24 minimum mark-up over cost and to modify such percentage by rule of the
25 board, except such percentage shall be not less than ten percent.

26 (e) Distributor prices on a "close-out" item shall be accepted by
27 the board if the item to be discontinued has been listed on the state
28 market for a period of at least six months, and upon the further
29 condition that the distributor who posts such a close-out price shall
30 not restock the item for a period of one year following the first
31 effective date of such close-out price.

32 (f) The board may reject any price posting that it deems to be in
33 violation of this section or any rule, or portion thereof, or that
34 would tend to disrupt the orderly sale and distribution of beer and
35 wine. Whenever the board rejects any posting, the licensee submitting
36 the posting may be heard by the board and shall have the burden of
37 showing that the posting is not in violation of this section or a rule
38 or does not tend to disrupt the orderly sale and distribution of beer

1 and wine. If the posting is accepted, it shall become effective at the
2 time fixed by the board. If the posting is rejected, the last
3 effective posting shall remain in effect until such time as an amended
4 posting is filed and approved, in accordance with the provisions of
5 this section.

6 (g) Prior to the effective date of the posted prices, all price
7 postings filed as required by this section constitute investigative
8 information and shall not be subject to disclosure, pursuant to ((RCW
9 ~~42.17.310(1)(d))~~) section 404(1) of this act.

10 (h) Any beer and/or wine distributor or employee authorized by the
11 distributor-employer may sell beer and/or wine at the distributor's
12 posted prices to any annual or special occasion retail licensee upon
13 presentation to the distributor or employee at the time of purchase of
14 a special permit issued by the board to such licensee.

15 (i) Every annual or special occasion retail licensee, upon
16 purchasing any beer and/or wine from a distributor, shall immediately
17 cause such beer or wine to be delivered to the licensed premises, and
18 the licensee shall not thereafter permit such beer to be disposed of in
19 any manner except as authorized by the license.

20 (ii) Beer and wine sold as provided in this section shall be
21 delivered by the distributor or an authorized employee either to the
22 retailer's licensed premises or directly to the retailer at the
23 distributor's licensed premises. A distributor's prices to retail
24 licensees shall be the same at both such places of delivery.

25 (3) Beer and wine suppliers' price filings, contracts, and
26 memoranda.

27 (a) Every domestic brewery, microbrewery, and domestic winery
28 offering beer and/or wine for sale within the state shall file with the
29 board at its office in Olympia a copy of every written contract and a
30 memorandum of every oral agreement which such brewery or winery may
31 have with any beer or wine distributor, which contracts or memoranda
32 shall contain a schedule of prices charged to distributors for all
33 items and all terms of sale, including all regular and special
34 discounts; all advertising, sales and trade allowances, and incentive
35 programs; and all commissions, bonuses or gifts, and any and all other
36 discounts or allowances. Whenever changed or modified, such revised
37 contracts or memoranda shall forthwith be filed with the board as
38 provided for by rule. The provisions of this section also apply to

1 certificate of approval holders, beer and/or wine importers, and beer
2 and/or wine distributors who sell to other beer and/or wine
3 distributors.

4 Each price schedule shall be made on a form prepared and furnished
5 by the board, or a reasonable facsimile thereof, and shall set forth
6 all brands, types, packages, and containers of beer or wine offered for
7 sale by such licensed brewery or winery; all additional information
8 required may be filed as a supplement to the price schedule forms.

9 (b) Prices filed by a domestic brewery, microbrewery, domestic
10 winery, or certificate of approval holder shall be uniform prices to
11 all distributors on a statewide basis less bona fide allowances for
12 freight differentials. Quantity discounts are prohibited. No price
13 shall be filed that is below acquisition/production cost plus ten
14 percent of that cost, except that acquisition cost plus ten percent of
15 acquisition cost does not apply to sales of beer or wine between a beer
16 or wine importer who sells beer or wine to another beer or wine
17 importer or to a beer or wine distributor, or to a beer or wine
18 distributor who sells beer or wine to another beer or wine distributor.
19 However, the board is empowered to review periodically, as it may deem
20 appropriate, the amount of the percentage of acquisition/production
21 cost as a minimum mark-up over cost and to modify such percentage by
22 rule of the board, except such percentage shall be not less than ten
23 percent.

24 (c) No domestic brewery, microbrewery, domestic winery, certificate
25 of approval holder, beer or wine importer, or beer or wine distributor
26 may sell or offer to sell any beer or wine to any persons whatsoever in
27 this state until copies of such written contracts or memoranda of such
28 oral agreements are on file with the board.

29 (d) No domestic brewery, microbrewery, domestic winery, or
30 certificate of approval holder may sell or offer to sell any package or
31 container of beer or wine to any distributor at a price differing from
32 the price for such package or container as shown in the schedule of
33 prices filed by the domestic brewery, microbrewery, domestic winery, or
34 certificate of approval holder and then in effect, according to rules
35 adopted by the board.

36 (e) The board may reject any supplier's price filing, contract, or
37 memorandum of oral agreement, or portion thereof that it deems to be in
38 violation of this section or any rule or that would tend to disrupt the

1 orderly sale and distribution of beer or wine. Whenever the board
2 rejects any such price filing, contract, or memorandum, the licensee
3 submitting the price filing, contract, or memorandum may be heard by
4 the board and shall have the burden of showing that the price filing,
5 contract, or memorandum is not in violation of this section or a rule
6 or does not tend to disrupt the orderly sale and distribution of beer
7 or wine. If the price filing, contract, or memorandum is accepted, it
8 shall become effective at a time fixed by the board. If the price
9 filing, contract, or memorandum, or portion thereof, is rejected, the
10 last effective price filing, contract, or memorandum shall remain in
11 effect until such time as an amended price filing, contract, or
12 memorandum is filed and approved, in accordance with the provisions of
13 this section.

14 (f) Prior to the effective date of the posted prices, all prices,
15 contracts, and memoranda filed as required by this section constitute
16 investigative information and shall not be subject to disclosure,
17 pursuant to ((~~RCW 42.17.310(1)(d)~~)) section 404(1) of this act.

18 **Sec. 329.** RCW 69.41.044 and 1989 1st ex.s. c 9 s 406 are each
19 amended to read as follows:

20 All records, reports, and information obtained by the board or its
21 authorized representatives from or on behalf of a pharmaceutical
22 manufacturer, representative of a manufacturer, wholesaler, pharmacy,
23 or practitioner who purchases, dispenses, or distributes legend drugs
24 under this chapter are confidential and exempt from public inspection
25 and copying under chapter ((~~42.17~~)) 42.30 RCW. Nothing in this section
26 restricts the investigations or the proceedings of the board so long as
27 the board and its authorized representatives comply with the provisions
28 of chapter ((~~42.17~~)) 42.30 RCW.

29 **Sec. 330.** RCW 69.41.280 and 1989 c 352 s 6 are each amended to
30 read as follows:

31 All records, reports, and information obtained by the board or its
32 authorized representatives from or on behalf of a pharmaceutical
33 manufacturer, representative of a manufacturer, wholesaler, pharmacy,
34 or practitioner who purchases, dispenses, or distributes legend drugs
35 under this chapter are confidential and exempt from public inspection
36 and copying under chapter ((~~42.17~~)) 42.30 RCW. Nothing in this section

1 restricts the investigations or the proceedings of the board so long as
2 the board and its authorized representatives comply with the provisions
3 of chapter ((42.17)) 42.30 RCW.

4 **Sec. 331.** RCW 69.45.090 and 1987 c 411 s 9 are each amended to
5 read as follows:

6 All records, reports, and information obtained by the board from or
7 on behalf of a manufacturer or manufacturer's representative under this
8 chapter are confidential and exempt from public inspection and copying
9 under chapter ((42.17)) 42.30 RCW. This section does not apply to
10 public disclosure of the identity of persons found by the board to have
11 violated state or federal law, rules, or regulations. This section is
12 not intended to restrict the investigations and proceedings of the
13 board so long as the board maintains the confidentiality required by
14 this section.

15 **Sec. 332.** RCW 70.02.090 and 1991 c 335 s 302 are each amended to
16 read as follows:

17 (1) Subject to any conflicting requirement in the ((~~public~~
18 ~~disclosure~~)) open government act, chapter ((42.17)) 42.30 RCW, a health
19 care provider may deny access to health care information by a patient
20 if the health care provider reasonably concludes that:

21 (a) Knowledge of the health care information would be injurious to
22 the health of the patient;

23 (b) Knowledge of the health care information could reasonably be
24 expected to lead to the patient's identification of an individual who
25 provided the information in confidence and under circumstances in which
26 confidentiality was appropriate;

27 (c) Knowledge of the health care information could reasonably be
28 expected to cause danger to the life or safety of any individual;

29 (d) The health care information was compiled and is used solely for
30 litigation, quality assurance, peer review, or administrative purposes;
31 or

32 (e) Access to the health care information is otherwise prohibited
33 by law.

34 (2) If a health care provider denies a request for examination and
35 copying under this section, the provider, to the extent possible, shall
36 segregate health care information for which access has been denied

1 under subsection (1) of this section from information for which access
2 cannot be denied and permit the patient to examine or copy the
3 disclosable information.

4 (3) If a health care provider denies a patient's request for
5 examination and copying, in whole or in part, under subsection (1)(a)
6 or (c) of this section, the provider shall permit examination and
7 copying of the record by another health care provider, selected by the
8 patient, who is licensed, certified, registered, or otherwise
9 authorized under the laws of this state to treat the patient for the
10 same condition as the health care provider denying the request. The
11 health care provider denying the request shall inform the patient of
12 the patient's right to select another health care provider under this
13 subsection. The patient shall be responsible for arranging for
14 compensation of the other health care provider so selected.

15 **Sec. 333.** RCW 70.38.095 and 1979 ex.s. c 161 s 9 are each amended
16 to read as follows:

17 Public accessibility to records shall be accorded by health systems
18 agencies pursuant to Public Law 93-641 and (~~RCW 42.17.250 through~~
19 ~~42.17.340~~) chapter 42.30 RCW. A health systems agency shall be
20 considered a "public agency" for the sole purpose of complying with the
21 (~~"Open Public Meetings Act of 1971"~~) open government act, chapter
22 42.30 RCW.

23 **Sec. 334.** RCW 70.41.150 and 2000 c 6 s 1 are each amended to read
24 as follows:

25 Information received by the department through filed reports,
26 inspection, or as otherwise authorized under this chapter, may be
27 disclosed publicly, as permitted under chapter (~~42.17~~) 42.30 RCW,
28 subject to the following provisions:

29 (1) Licensing inspections, or complaint investigations regardless
30 of findings, shall, as requested, be disclosed no sooner than three
31 business days after the hospital has received the resulting assessment
32 report;

33 (2) Information regarding administrative action against the license
34 shall, as requested, be disclosed after the hospital has received the
35 documents initiating the administrative action;

1 (3) Information about complaints that did not warrant an
2 investigation shall not be disclosed except to notify the hospital and
3 the complainant that the complaint did not warrant an investigation.
4 If requested, the individual complainant shall receive information on
5 other like complaints that have been reported against the hospital; and

6 (4) Information disclosed pursuant to this section shall not
7 disclose individual names.

8 **Sec. 335.** RCW 70.44.315 and 1997 c 332 s 18 are each amended to
9 read as follows:

10 (1) When evaluating a potential acquisition, the commissioners
11 shall determine their compliance with the following requirements:

12 (a) That the acquisition is authorized under chapter 70.44 RCW and
13 other laws governing public hospital districts;

14 (b) That the procedures used in the decision-making process allowed
15 district officials to thoroughly fulfill their due diligence
16 responsibilities as municipal officers, including those covered under
17 chapter 42.23 RCW governing conflicts of interest and chapter 42.20 RCW
18 prohibiting malfeasance of public officials;

19 (c) That the acquisition will not result in the revocation of
20 hospital privileges;

21 (d) That sufficient safeguards are included to maintain appropriate
22 capacity for health science research and health care provider
23 education;

24 (e) That the acquisition is allowed under Article VIII, section 7
25 of the state Constitution, which prohibits gifts of public funds or
26 lending of credit and Article XI, section 14, prohibiting private use
27 of public funds;

28 (f) That the public hospital district will retain control over
29 district functions as required under chapter 70.44 RCW and other laws
30 governing hospital districts;

31 (g) That the activities related to the acquisition process complied
32 with chapters 42.17, 42.30, and 42.32 RCW, governing disclosure of
33 public records, and chapter 42.30 RCW, governing public meetings;

34 (h) That the acquisition complies with the requirements of RCW
35 70.44.300 relating to fair market value; and

36 (i) Other state laws affecting the proposed acquisition.

1 (2) The commissioners shall also determine whether the public
2 hospital district should retain a right of first refusal to repurchase
3 the assets by the public hospital district if the hospital is
4 subsequently sold to, acquired by, or merged with another entity.

5 (3)(a) Prior to approving the acquisition of a district hospital,
6 the board of commissioners of the hospital district shall obtain a
7 written opinion from a qualified independent expert or the Washington
8 state department of health as to whether or not the acquisition meets
9 the standards set forth in RCW 70.45.080.

10 (b) Upon request, the hospital district and the person seeking to
11 acquire its hospital shall provide the department or independent expert
12 with any needed information and documents. The department shall charge
13 the hospital district for any costs the department incurs in preparing
14 an opinion under this section. The hospital district may recover from
15 the acquiring person any costs it incurs in obtaining the opinion from
16 either the department or the independent expert. The opinion shall be
17 delivered to the board of commissioners no later than ninety days after
18 it is requested.

19 (c) Within ten working days after it receives the opinion, the
20 board of commissioners shall publish notice of the opinion in at least
21 one newspaper of general circulation within the hospital district,
22 stating how a person may obtain a copy, and giving the time and
23 location of the hearing required under (d) of this subsection. It
24 shall make a copy of the report and the opinion available to anyone
25 upon request.

26 (d) Within thirty days after it received the opinion, the board of
27 commissioners shall hold a public hearing regarding the proposed
28 acquisition. The board of commissioners may vote to approve the
29 acquisition no sooner than thirty days following the public hearing.

30 (4)(a) For purposes of this section, "acquisition" means an
31 acquisition by a person of any interest in a hospital owned by a public
32 hospital district, whether by purchase, merger, lease, or otherwise,
33 that results in a change of ownership or control of twenty percent or
34 more of the assets of a hospital currently licensed and operating under
35 RCW 70.41.090. Acquisition does not include an acquisition where the
36 other party or parties to the acquisition are nonprofit corporations
37 having a substantially similar charitable health care purpose,
38 organizations exempt from federal income tax under section 501(c)(3) of

1 the internal revenue code, or governmental entities. Acquisition does
2 not include an acquisition where the other party is an organization
3 that is a limited liability corporation, a partnership, or any other
4 legal entity and the members, partners, or otherwise designated
5 controlling parties of the organization are all nonprofit corporations
6 having a charitable health care purpose, organizations exempt from
7 federal income tax under section 501(c)(3) of the internal revenue
8 code, or governmental entities. Acquisition does not include
9 activities between two or more governmental organizations, including
10 organizations acting pursuant to chapter 39.34 RCW, regardless of the
11 type of organizational structure used by the governmental entities.

12 (b) For purposes of this subsection (4), "person" means an
13 individual, a trust or estate, a partnership, a corporation including
14 associations, a limited liability company, a joint stock company, or an
15 insurance company.

16 **Sec. 336.** RCW 70.45.030 and 1997 c 332 s 3 are each amended to
17 read as follows:

18 (1) A person may not engage in the acquisition of a nonprofit
19 hospital without first having applied for and received the approval of
20 the department under this chapter.

21 (2) An application must be submitted to the department on forms
22 provided by the department, and at a minimum must include: The name of
23 the hospital being acquired, the name of the acquiring person or other
24 parties to the acquisition, the acquisition price, a copy of the
25 acquisition agreement, a financial and economic analysis and report
26 from an independent expert or consultant of the effect of the
27 acquisition under the criteria in RCW 70.45.070, and all other related
28 documents. The applications and all related documents are considered
29 public records for purposes of chapter (~~(42.17)~~) 42.30 RCW.

30 (3) The department shall charge an applicant fees sufficient to
31 cover the costs of implementing this chapter. The fees must include
32 the cost of the attorney general's opinion under RCW 70.45.060. The
33 department shall transfer this portion of the fee, upon receipt, to the
34 attorney general.

35 **Sec. 337.** RCW 70.47.150 and 1990 c 54 s 1 are each amended to read
36 as follows:

1 Notwithstanding the provisions of chapter ((42.17)) 42.30 RCW, (1)
2 records obtained, reviewed by, or on file with the plan containing
3 information concerning medical treatment of individuals shall be exempt
4 from public inspection and copying; and (2) actuarial formulas,
5 statistics, and assumptions submitted in support of a rate filing by a
6 managed health care system or submitted to the administrator upon his
7 or her request shall be exempt from public inspection and copying in
8 order to preserve trade secrets or prevent unfair competition.

9 **Sec. 338.** RCW 70.77.455 and 1997 c 182 s 23 are each amended to
10 read as follows:

11 (1) All licensees shall maintain and make available to the chief of
12 the Washington state patrol, through the director of fire protection,
13 full and complete records showing all production, imports, exports,
14 purchases, and sales of fireworks items by class.

15 (2) All records obtained and all reports produced, as required by
16 this chapter, are not subject to disclosure through the ((~~public~~
17 ~~disclosure~~)) open government act under chapter ((42.17)) 42.30 RCW.

18 **Sec. 339.** RCW 70.95C.220 and 1990 c 114 s 8 are each amended to
19 read as follows:

20 (1) The department may review a plan, executive summary, or an
21 annual progress report to determine whether the plan, executive
22 summary, or annual progress report is adequate pursuant to the rules
23 developed under this section and with the provisions of RCW 70.95C.200.
24 In determining the adequacy of any plan, executive summary, or annual
25 progress report, the department shall base its determination solely on
26 whether the plan, executive summary, or annual progress report is
27 complete and prepared in accordance with the provisions of RCW
28 70.95C.200.

29 (2) Plans developed under RCW 70.95C.200 shall be retained at the
30 facility of the hazardous substance user or hazardous waste generator
31 preparing a plan. The plan is not a public record under the ((~~public~~
32 ~~disclosure laws of the state of Washington contained in~~)) open
33 government act, chapter ((42.17)) 42.30 RCW. A user or generator
34 required to prepare a plan shall permit the director or a
35 representative of the director to review the plan to determine its
36 adequacy. No visit made by the director or a representative of the

1 director to a facility for the purposes of this subsection may be
2 regarded as an inspection or investigation, and no notices or citations
3 may be issued, nor any civil penalty assessed, upon such a visit.

4 (3) If a hazardous substance user or hazardous waste generator
5 fails to complete an adequate plan, executive summary, or annual
6 progress report, the department shall notify the user or generator of
7 the inadequacy, identifying specific deficiencies. For the purposes of
8 this section, a deficiency may include failure to develop a plan,
9 failure to submit an executive summary pursuant to the schedule
10 provided in RCW 70.95C.200(5), and failure to submit an annual progress
11 report pursuant to the rules developed under RCW 70.95C.200(6). The
12 department shall specify a reasonable time frame, of not less than
13 ninety days, within which the user or generator shall complete a
14 modified plan, executive summary, or annual progress report addressing
15 the specified deficiencies.

16 (4) If the department determines that a modified plan, executive
17 summary, or annual progress report is inadequate, the department may,
18 within its discretion, either require further modification or enter an
19 order pursuant to subsection (5)(a) of this section.

20 (5)(a) If, after having received a list of specified deficiencies
21 from the department, a hazardous substance user or hazardous waste
22 generator required to prepare a plan fails to complete modification of
23 a plan, executive summary, or annual progress report within the time
24 period specified by the department, the department may enter an order
25 pursuant to chapter 34.05 RCW finding the user or generator not in
26 compliance with the requirements of RCW 70.95C.200. When the order is
27 final, the department shall notify the department of revenue to charge
28 a penalty fee. The penalty fee shall be the greater of one thousand
29 dollars or three times the amount of the user's or generator's previous
30 year's fee, in addition to the current year's fee. If no fee was
31 assessed the previous year, the penalty shall be the greater of one
32 thousand dollars or three times the amount of the current year's fee.
33 The penalty assessed under this subsection shall be collected each year
34 after the year for which the penalty was assessed until an adequate
35 plan or executive summary is completed.

36 (b) If a hazardous substance user or hazardous waste generator
37 required to prepare a plan fails to complete an adequate plan,
38 executive summary, or annual progress report after the department has

1 levied against the user or generator the penalty provided in (a) of
2 this subsection, the user or generator shall be required to pay a
3 surcharge to the department whenever the user or generator disposes of
4 a hazardous waste at any hazardous waste incinerator or hazardous waste
5 landfill facility located in Washington state, until a plan, executive
6 summary, or annual progress report is completed and determined to be
7 adequate by the department. The surcharge shall be equal to three
8 times the fee charged for disposal. The department shall furnish the
9 incinerator and landfill facilities in this state with a list of
10 environmental protection agency/state identification numbers of the
11 hazardous waste generators that are not in compliance with the
12 requirements of RCW 70.95C.200.

13 **Sec. 340.** RCW 70.102.020 and 1985 c 410 s 1 are each amended to
14 read as follows:

15 There is hereby created the hazardous substance information and
16 education office. Through this office the department shall:

17 (1) Facilitate access to existing information on hazardous
18 substances within a community;

19 (2) Request and obtain information about hazardous substances at
20 specified locations and facilities from agencies that regulate those
21 locations and facilities. The department shall review, approve, and
22 provide confidentiality as provided by statute. Upon request of the
23 department, each agency shall provide the information within forty-five
24 days;

25 (3) At the request of citizens or public health or public safety
26 organizations, compile existing information about hazardous substance
27 use at specified locations and facilities. This information shall
28 include but not be limited to:

29 (a) Point and nonpoint air and water emissions;

30 (b) Extremely hazardous, moderate risk wastes and dangerous wastes
31 as defined in chapter 70.105 RCW produced, used, stored, transported
32 from, or disposed of by any facility;

33 (c) A list of the hazardous substances present at a given site and
34 data on their acute and chronic health and environmental effects;

35 (d) Data on governmental pesticide use at a given site;

36 (e) Data on commercial pesticide use at a given site if such data
37 is only given to individuals who are chemically sensitive; and

1 (f) Compliance history of any facility.

2 (4) Provide education to the public on the proper production, use,
3 storage, and disposal of hazardous substances, including but not
4 limited to:

5 (a) A technical resource center on hazardous substance management
6 for industry and the public;

7 (b) Programs, in cooperation with local government, to educate
8 generators of moderate risk waste, and provide information regarding
9 the potential hazards to human health and the environment resulting
10 from improper use and disposal of the waste and proper methods of
11 handling, reducing, recycling, and disposing of the waste;

12 (c) Public information and education relating to the safe handling
13 and disposal of hazardous household substances; and

14 (d) Guidelines to aid counties in developing and implementing a
15 hazardous household substances program.

16 Requests for information from the hazardous substance information
17 and education office may be made by letter or by a toll-free telephone
18 line, if one is established by the department. Requests shall be
19 responded to in accordance with chapter ((42.17)) 42.30 RCW.

20 This section shall not require any agency to compile information
21 that is not required by existing laws or ((regulations)) rules.

22 **Sec. 341.** RCW 70.120.100 and 1998 c 342 s 3 are each amended to
23 read as follows:

24 The department shall investigate complaints received regarding the
25 operation of emission testing stations and shall require corrections or
26 modifications in those operations when deemed necessary.

27 The department shall also review complaints received regarding the
28 maintenance or repairs secured by owners of motor vehicles for the
29 purpose of complying with the requirements of this chapter. When
30 possible, the department shall assist such owners in determining the
31 merits of the complaints.

32 The department shall keep a copy of all complaints received, and on
33 request, make copies available to the public. This is not intended to
34 require disclosure of any information that is exempt from public
35 disclosure under chapter ((42.17)) 42.30 RCW.

1 **Sec. 342.** RCW 70.148.060 and 1990 c 64 s 7 are each amended to
2 read as follows:

3 (1) All examination and proprietary reports and information
4 obtained by the director and the director's staff in soliciting bids
5 from insurers and in monitoring the insurer selected by the director
6 shall not be made public or otherwise disclosed to any person, firm,
7 corporation, agency, association, governmental body, or other entity.

8 (2) Subsection (1) of this section notwithstanding, the director
9 may furnish all or part of examination reports prepared by the director
10 or by any person, firm, corporation, association, or other entity
11 preparing the reports on behalf of the director to:

12 (a) The Washington state insurance commissioner;

13 (b) A person or organization officially connected with the insurer
14 as officer, director, attorney, auditor, or independent attorney or
15 independent auditor; and

16 (c) The attorney general in his or her role as legal advisor to the
17 director.

18 (3) Subsection (1) of this section notwithstanding, the director
19 may furnish all or part of the examination or proprietary reports or
20 information obtained by the director to:

21 (a) The Washington state insurance commissioner; and

22 (b) A person, firm, corporation, association, governmental body, or
23 other entity with whom the director has contracted for services
24 necessary to perform his or her official duties.

25 (4) Examination reports and proprietary information obtained by the
26 director and the director's staff are not subject to public disclosure
27 under chapter ((42.17)) 42.30 RCW.

28 (5) A person who violates any provision of this section is guilty
29 of a gross misdemeanor.

30 **Sec. 343.** RCW 70.149.090 and 1995 c 20 s 9 are each amended to
31 read as follows:

32 The following shall be confidential and exempt under chapter
33 ((42.17)) 42.30 RCW, subject to the conditions set forth in this
34 section:

35 (1) All examination and proprietary reports and information
36 obtained by the director and the director's staff in soliciting bids

1 from insurers and in monitoring the insurer selected by the director
2 may not be made public or otherwise disclosed to any person, firm,
3 corporation, agency, association, governmental body, or other entity.

4 (2) All information obtained by the director or the director's
5 staff related to registration of heating oil tanks to be insured may
6 not be made public or otherwise disclosed to any person, firm,
7 corporation, agency, association, governmental body, or other entity.

8 (3) The director may furnish all or part of examination reports
9 prepared by the director or by any person, firm, corporation,
10 association, or other entity preparing the reports on behalf of the
11 director to:

12 (a) The Washington state insurance commissioner;

13 (b) A person or organization officially connected with the insurer
14 as officer, director, attorney, auditor, or independent attorney or
15 independent auditor; and

16 (c) The attorney general in his or her role as legal advisor to the
17 director.

18 **Sec. 344.** RCW 70.168.070 and 1990 c 269 s 9 are each amended to
19 read as follows:

20 Any hospital or health care facility that desires to be authorized
21 to provide a designated trauma care service shall request designation
22 from the department. Designation involves a contractual relationship
23 between the state and a hospital or health care facility whereby each
24 agrees to maintain a level of commitment and resources sufficient to
25 meet responsibilities and standards required by the statewide emergency
26 medical services and trauma care system plan. By January 1992, the
27 department shall determine by rule the manner and form of such
28 requests. Upon receiving a request, the department shall review the
29 request to determine whether the hospital or health care facility is in
30 compliance with standards for the trauma care service or services for
31 which designation is desired. If requests are received from more than
32 one hospital or health care facility within the same emergency medical
33 planning and trauma care planning and service region, the department
34 shall select the most qualified applicant or applicants to be selected
35 through a competitive process. Any applicant not designated may
36 request a hearing to review the decision.

1 Designations are valid for a period of three years and are
2 renewable upon receipt of a request for renewal prior to expiration
3 from the hospital or health care facility. When an authorization for
4 designation is due for renewal other hospitals and health care
5 facilities in the area may also apply and compete for designation.
6 Regional emergency medical and trauma care councils shall be notified
7 promptly of designated hospitals and health care facilities in their
8 region so they may incorporate them into the regional plan as required
9 by this chapter. The department may revoke or suspend the designation
10 should it determine that the hospital or health care facility is
11 substantially out of compliance with the standards and has refused or
12 been unable to comply after a reasonable period of time has elapsed.
13 The department shall promptly notify the regional emergency medical and
14 trauma care planning and service region of suspensions or revocations.
15 Any facility whose designation has been revoked or suspended may
16 request a hearing to review the action by the department as provided
17 for in chapter 34.05 RCW.

18 As a part of the process to designate and renew the designation of
19 hospitals authorized to provide level I, II, or III trauma care
20 services or level I, II, and III pediatric trauma care services, the
21 department shall contract for on-site reviews of such hospitals to
22 determine compliance with required standards. The department may
23 contract for on-site reviews of hospitals and health care facilities
24 authorized to provide level IV or V trauma care services or level I, I-
25 pediatric, II, or III trauma-related rehabilitative services to
26 determine compliance with required standards. Members of on-site
27 review teams and staff included in site visits are exempt from ((RCW
28 ~~42.17.250 through 42.17.450~~)) chapter 42.30 RCW. They may not divulge
29 and cannot be subpoenaed to divulge information obtained or reports
30 written pursuant to this section in any civil action, except, after in
31 camera review, pursuant to a court order which provides for the
32 protection of sensitive information of interested parties including the
33 department: (1) In actions arising out of the department's designation
34 of a hospital or health care facility pursuant to this section; (2) in
35 actions arising out of the department's revocation or suspension of
36 designation status of a hospital or health care facility under this
37 section; or (3) in actions arising out of the restriction or revocation
38 of the clinical or staff privileges of a health care provider as

1 defined in RCW ((70.70.020)) 7.70.020 (1) and (2), subject to any
2 further restrictions on disclosure in RCW 4.24.250 that may apply.
3 Information that identifies individual patients shall not be publicly
4 disclosed without the patient's consent. When a facility requests
5 designation for more than one service, the department may coordinate
6 the joint consideration of such requests.

7 The department may establish fees to help defray the costs of this
8 section, though such fees shall not be assessed to health care
9 facilities authorized to provide level IV and V trauma care services.

10 This section shall not restrict the authority of a hospital or a
11 health care provider licensed under Title 18 RCW to provide services
12 which it has been authorized to provide by state law.

13 **Sec. 345.** RCW 70.168.090 and 1990 c 269 s 11 are each amended to
14 read as follows:

15 (1) By July 1991, the department shall establish a statewide data
16 registry to collect and analyze data on the incidence, severity, and
17 causes of trauma, including traumatic brain injury. The department
18 shall collect additional data on traumatic brain injury should
19 additional data requirements be enacted by the legislature. The
20 registry shall be used to improve the availability and delivery of
21 prehospital and hospital trauma care services. Specific data elements
22 of the registry shall be defined by rule by the department. To the
23 extent possible, the department shall coordinate data collection from
24 hospitals for the trauma registry with the ((~~statewide hospital~~))
25 health care data system authorized in chapter 70.170 RCW. Every
26 hospital, facility, or health care provider authorized to provide level
27 I, II, III, IV, or V trauma care services, level I, II, or III
28 pediatric trauma care services, level I, level I-pediatric, II, or III
29 trauma-related rehabilitative services, and prehospital trauma-related
30 services in the state shall furnish data to the registry. All other
31 hospitals and prehospital providers shall furnish trauma data as
32 required by the department by rule.

33 The department may respond to requests for data and other
34 information from the registry for special studies and analysis
35 consistent with requirements for confidentiality of patient and quality
36 assurance records. The department may require requestors to pay any or

1 all of the reasonable costs associated with such requests that might be
2 approved.

3 (2) By January 1994, in each emergency medical services and trauma
4 care planning and service region, a regional emergency medical services
5 and trauma care systems quality assurance program shall be established
6 by those facilities authorized to provide levels I, II, and III trauma
7 care services. The systems quality assurance program shall evaluate
8 trauma care delivery, patient care outcomes, and compliance with the
9 requirements of this chapter. The emergency medical services medical
10 program director and all other health care providers and facilities who
11 provide trauma care services within the region shall be invited to
12 participate in the regional emergency medical services and trauma care
13 quality assurance program.

14 (3) Data elements related to the identification of individual
15 patient's, provider's and facility's care outcomes shall be
16 confidential, shall be exempt from RCW 42.17.250 through 42.17.450 (as
17 recodified by this act), and shall not be subject to discovery by
18 subpoena or admissible as evidence.

19 (4) Patient care quality assurance proceedings, records, and
20 reports developed pursuant to this section are confidential, exempt
21 from (~~RCW 42.17.250 through 42.17.450~~) chapter 42.30 RCW, and are not
22 subject to discovery by subpoena or admissible as evidence. In any
23 civil action, except, after in camera review, pursuant to a court order
24 which provides for the protection of sensitive information of
25 interested parties including the department: (a) In actions arising
26 out of the department's designation of a hospital or health care
27 facility pursuant to RCW 70.168.070; (b) in actions arising out of the
28 department's revocation or suspension of designation status of a
29 hospital or health care facility under RCW 70.168.070; or (c) in
30 actions arising out of the restriction or revocation of the clinical or
31 staff privileges of a health care provider as defined in RCW 7.70.020
32 (1) and (2), subject to any further restrictions on disclosure in RCW
33 4.24.250 that may apply. Information that identifies individual
34 patients shall not be publicly disclosed without the patient's consent.

35 **Sec. 346.** RCW 70.190.060 and 1998 c 314 s 12 are each amended to
36 read as follows:

37 (1) The legislature authorizes community public health and safety

1 networks to reconnect parents and other citizens with children, youth,
2 families, and community institutions which support health and safety.
3 The networks have only those powers and duties expressly authorized
4 under this chapter. The networks should empower parents and other
5 citizens by being a means of expressing their attitudes, spirit, and
6 perspectives regarding safe and healthy family and community life. The
7 legislature intends that parent and other citizen perspectives exercise
8 a controlling influence over policy and program operations of
9 professional organizations concerned with children and family issues
10 within networks in a manner consistent with the Constitution and state
11 law. It is not the intent of the legislature that health, social
12 service, or educational professionals dominate community public health
13 and safety network processes or programs, but rather that these
14 professionals use their skills to lend support to parents and other
15 citizens in expressing their values as parents and other citizens
16 identify community needs and establish community priorities. To this
17 end, the legislature intends full participation of parents and other
18 citizens in community public health and safety networks. The intent is
19 that local community values are reflected in the operations of the
20 network.

21 (2) A group of persons described in subsection (3) of this section
22 may apply to be a community public health and safety network.

23 (3) Each community public health and safety network shall be
24 composed of twenty-three people, thirteen of whom shall be citizens who
25 live within the network boundary with no fiduciary interest. In
26 selecting these members, first priority shall be given to members of
27 community mobilization advisory boards, city or county children's
28 services commissions, human services advisory boards, or other such
29 organizations. The thirteen persons shall be selected as follows:
30 Three by chambers of commerce, three by school board members, three by
31 county legislative authorities, three by city legislative authorities,
32 and one high school student, selected by student organizations. The
33 remaining ten members shall live or work within the network boundary
34 and shall include local representation selected by the following groups
35 and entities: Cities; counties; federally recognized Indian tribes;
36 parks and recreation programs; law enforcement agencies; state
37 children's service workers; employment assistance workers; private

1 social service providers, broad-based nonsecular organizations, or
2 health service providers; and public education.

3 (4) Each of the twenty-three people who are members of each
4 community public health and safety network must sign an annual
5 declaration under penalty of perjury or a notarized statement that
6 clearly, in plain and understandable language, states whether or not he
7 or she has a fiduciary interest. If a member has a fiduciary interest,
8 the nature of that interest must be made clear, in plain understandable
9 language, on the signed statement.

10 (5) Members of the network shall serve terms of three years.

11 The terms of the initial members of each network shall be as
12 follows: (a) One-third shall serve for one year; (b) one-third shall
13 serve for two years; and (c) one-third shall serve for three years.
14 Initial members may agree which shall serve fewer than three years or
15 the decision may be made by lot. Any vacancy occurring during the term
16 may be filled by the chair for the balance of the unexpired term.

17 (6) Not less than sixty days before the expiration of a network
18 member's term, the chair shall submit the name of a nominee to the
19 network for its approval. The network shall comply with subsection (3)
20 of this section.

21 (7) Networks are subject to the open public meetings act under
22 chapter 42.30 RCW and the public records provisions of (~~RCW 42.17.270~~
23 ~~through 42.17.310~~) chapter 42.30 RCW.

24 **Sec. 347.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and
25 2004 c 33 s 2 are each reenacted and amended to read as follows:

26 Except as provided in this section, the fact of admission and all
27 information and records compiled, obtained, or maintained in the course
28 of providing services to either voluntary or involuntary recipients of
29 services at public or private agencies shall be confidential.

30 Information and records may be disclosed only:

31 (1) In communications between qualified professional persons to
32 meet the requirements of this chapter, in the provision of services or
33 appropriate referrals, or in the course of guardianship proceedings.
34 The consent of the patient, or his or her guardian, shall be obtained
35 before information or records may be disclosed by a professional person
36 employed by a facility unless provided to a professional person:

37 (a) Employed by the facility;

- 1 (b) Who has medical responsibility for the patient's care;
- 2 (c) Who is a county designated mental health professional;
- 3 (d) Who is providing services under chapter 71.24 RCW;
- 4 (e) Who is employed by a state or local correctional facility where
- 5 the person is confined or supervised; or
- 6 (f) Who is providing evaluation, treatment, or follow-up services
- 7 under chapter 10.77 RCW.

8 (2) When the communications regard the special needs of a patient
9 and the necessary circumstances giving rise to such needs and the
10 disclosure is made by a facility providing outpatient services to the
11 operator of a care facility in which the patient resides.

12 (3) When the person receiving services, or his or her guardian,
13 designates persons to whom information or records may be released, or
14 if the person is a minor, when his or her parents make such
15 designation.

16 (4) To the extent necessary for a recipient to make a claim, or for
17 a claim to be made on behalf of a recipient for aid, insurance, or
18 medical assistance to which he or she may be entitled.

19 (5) For either program evaluation or research, or both: PROVIDED,
20 That the secretary adopts rules for the conduct of the evaluation or
21 research, or both. Such rules shall include, but need not be limited
22 to, the requirement that all evaluators and researchers must sign an
23 oath of confidentiality substantially as follows:

24 "As a condition of conducting evaluation or research concerning
25 persons who have received services from (fill in the facility, agency,
26 or person) I,, agree not to divulge, publish, or
27 otherwise make known to unauthorized persons or the public any
28 information obtained in the course of such evaluation or research
29 regarding persons who have received services such that the person who
30 received such services is identifiable.

31 I recognize that unauthorized release of confidential information
32 may subject me to civil liability under the provisions of state law.

33 /s/

34 (6)(a) To the courts as necessary to the administration of this
35 chapter or to a court ordering an evaluation or treatment under chapter

1 10.77 RCW solely for the purpose of preventing the entry of any
2 evaluation or treatment order that is inconsistent with any order
3 entered under this chapter.

4 (b) To a court or its designee in which a motion under chapter
5 10.77 RCW has been made for involuntary medication of a defendant for
6 the purpose of competency restoration.

7 (c) Disclosure under this subsection is mandatory for the purpose
8 of the health insurance portability and accountability act.

9 (7) To law enforcement officers, public health officers, or
10 personnel of the department of corrections or the indeterminate
11 sentence review board for persons who are the subject of the records
12 and who are committed to the custody or supervision of the department
13 of corrections or indeterminate sentence review board which information
14 or records are necessary to carry out the responsibilities of their
15 office. Except for dissemination of information released pursuant to
16 RCW 71.05.425 and 4.24.550, regarding persons committed under this
17 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of
18 a sex offense as defined in RCW 9.94A.030, the extent of information
19 that may be released is limited as follows:

20 (a) Only the fact, place, and date of involuntary commitment, the
21 fact and date of discharge or release, and the last known address shall
22 be disclosed upon request;

23 (b) The law enforcement and public health officers or personnel of
24 the department of corrections or indeterminate sentence review board
25 shall be obligated to keep such information confidential in accordance
26 with this chapter;

27 (c) Additional information shall be disclosed only after giving
28 notice to said person and his or her counsel and upon a showing of
29 clear, cogent, and convincing evidence that such information is
30 necessary and that appropriate safeguards for strict confidentiality
31 are and will be maintained. However, in the event the said person has
32 escaped from custody, said notice prior to disclosure is not necessary
33 and that the facility from which the person escaped shall include an
34 evaluation as to whether the person is of danger to persons or property
35 and has a propensity toward violence;

36 (d) Information and records shall be disclosed to the department of
37 corrections pursuant to and in compliance with the provisions of RCW
38 71.05.445 for the purposes of completing presentence investigations or

1 risk assessment reports, supervision of an incarcerated offender or
2 offender under supervision in the community, planning for and provision
3 of supervision of an offender, or assessment of an offender's risk to
4 the community; and

5 (e) Disclosure under this subsection is mandatory for the purposes
6 of the health insurance portability and accountability act.

7 (8) To the attorney of the detained person.

8 (9) To the prosecuting attorney as necessary to carry out the
9 responsibilities of the office under RCW 71.05.330(2) and
10 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
11 to records regarding the committed person's treatment and prognosis,
12 medication, behavior problems, and other records relevant to the issue
13 of whether treatment less restrictive than inpatient treatment is in
14 the best interest of the committed person or others. Information shall
15 be disclosed only after giving notice to the committed person and the
16 person's counsel.

17 (10) To appropriate law enforcement agencies and to a person, when
18 the identity of the person is known to the public or private agency,
19 whose health and safety has been threatened, or who is known to have
20 been repeatedly harassed, by the patient. The person may designate a
21 representative to receive the disclosure. The disclosure shall be made
22 by the professional person in charge of the public or private agency or
23 his or her designee and shall include the dates of commitment,
24 admission, discharge, or release, authorized or unauthorized absence
25 from the agency's facility, and only such other information that is
26 pertinent to the threat or harassment. The decision to disclose or not
27 shall not result in civil liability for the agency or its employees so
28 long as the decision was reached in good faith and without gross
29 negligence.

30 (11) To appropriate corrections and law enforcement agencies all
31 necessary and relevant information in the event of a crisis or emergent
32 situation that poses a significant and imminent risk to the public.
33 The decision to disclose or not shall not result in civil liability for
34 the mental health service provider or its employees so long as the
35 decision was reached in good faith and without gross negligence.

36 (12) To the persons designated in RCW 71.05.425 for the purposes
37 described in that section.

1 (13) Civil liability and immunity for the release of information
2 about a particular person who is committed to the department under RCW
3 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
4 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

5 (14) To a patient's next of kin, guardian, or conservator, if any,
6 in the event of death, as provided in RCW 71.05.400.

7 (15) To the department of health for the purposes of determining
8 compliance with state or federal licensure, certification, or
9 registration rules or laws. However, the information and records
10 obtained under this subsection are exempt from public inspection and
11 copying pursuant to chapter ((42.17)) 42.30 RCW.

12 (16) To mark headstones or otherwise memorialize patients interred
13 at state hospital cemeteries. The department of social and health
14 services shall make available the name, date of birth, and date of
15 death of patients buried in state hospital cemeteries fifty years after
16 the death of a patient.

17 The fact of admission, as well as all records, files, evidence,
18 findings, or orders made, prepared, collected, or maintained pursuant
19 to this chapter shall not be admissible as evidence in any legal
20 proceeding outside this chapter without the written consent of the
21 person who was the subject of the proceeding except in a subsequent
22 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
23 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
24 10.77 RCW due to incompetency to stand trial or in a civil commitment
25 proceeding pursuant to chapter 71.09 RCW. The records and files
26 maintained in any court proceeding pursuant to this chapter shall be
27 confidential and available subsequent to such proceedings only to the
28 person who was the subject of the proceeding or his or her attorney.
29 In addition, the court may order the subsequent release or use of such
30 records or files only upon good cause shown if the court finds that
31 appropriate safeguards for strict confidentiality are and will be
32 maintained.

33 **Sec. 348.** RCW 72.09.116 and 2004 c 167 s 8 are each amended to
34 read as follows:

35 All records, documents, data, and other materials obtained under
36 the requirements of RCW 72.09.115 from an existing correctional

1 industries class I work program participant or an applicant for a
2 proposed new or expanded class I correctional industries work program
3 are exempt from public disclosure under chapter ((42.17)) 42.30 RCW.

4 **Sec. 349.** RCW 72.09.225 and 1999 c 72 s 2 are each amended to read
5 as follows:

6 (1) When the secretary has reasonable cause to believe that sexual
7 intercourse or sexual contact between an employee and an inmate has
8 occurred, notwithstanding any rule adopted under chapter 41.06 RCW the
9 secretary shall immediately suspend the employee.

10 (2) The secretary shall immediately institute proceedings to
11 terminate the employment of any person:

12 (a) Who is found by the department, based on a preponderance of the
13 evidence, to have had sexual intercourse or sexual contact with the
14 inmate; or

15 (b) Upon a guilty plea or conviction for any crime specified in
16 chapter 9A.44 RCW when the victim was an inmate.

17 (3) When the secretary has reasonable cause to believe that sexual
18 intercourse or sexual contact between the employee of a contractor and
19 an inmate has occurred, the secretary shall require the employee of a
20 contractor to be immediately removed from any employment position which
21 would permit the employee to have any access to any inmate.

22 (4) The secretary shall disqualify for employment with a contractor
23 in any position with access to an inmate, any person:

24 (a) Who is found by the department, based on a preponderance of the
25 evidence, to have had sexual intercourse or sexual contact with the
26 inmate; or

27 (b) Upon a guilty plea or conviction for any crime specified in
28 chapter 9A.44 RCW when the victim was an inmate.

29 (5) The secretary, when considering the renewal of a contract with
30 a contractor who has taken action under subsection (3) or (4) of this
31 section, shall require the contractor to demonstrate that there has
32 been significant progress made in reducing the likelihood that any of
33 its employees will have sexual intercourse or sexual contact with an
34 inmate. The secretary shall examine whether the contractor has taken
35 steps to improve hiring, training, and monitoring practices and whether
36 the employee remains with the contractor. The secretary shall not

1 renew a contract unless he or she determines that significant progress
2 has been made.

3 (6)(a) For the purposes of RCW 50.20.060, a person terminated under
4 this section shall be considered discharged for misconduct.

5 (b)(i) The department may, within its discretion or upon request of
6 any member of the public, release information to an individual or to
7 the public regarding any person or contract terminated under this
8 section.

9 (ii) An appointed or elected public official, public employee, or
10 public agency as defined in RCW 4.24.470 is immune from civil liability
11 for damages for any discretionary release of relevant and necessary
12 information, unless it is shown that the official, employee, or agency
13 acted with gross negligence or in bad faith. The immunity provided
14 under this section applies to the release of relevant and necessary
15 information to other public officials, public employees, or public
16 agencies, and to the public.

17 (iii) Except as provided in chapter ((42.17)) 42.30 RCW, or
18 elsewhere, nothing in this section shall impose any liability upon a
19 public official, public employee, or public agency for failing to
20 release information authorized under this section. Nothing in this
21 section implies that information regarding persons designated in
22 subsection (2) of this section is confidential except as may otherwise
23 be provided by law.

24 (7) The department shall adopt rules to implement this section.
25 The rules shall reflect the legislative intent that this section
26 prohibits individuals who are employed by the department or a
27 contractor of the department from having sexual intercourse or sexual
28 contact with inmates. The rules shall also reflect the legislative
29 intent that when a person is employed by the department or a contractor
30 of the department, and has sexual intercourse or sexual contact with an
31 inmate against the employed person's will, the termination provisions
32 of this section shall not be invoked.

33 (8) As used in this section:

34 (a) "Contractor" includes all subcontractors of a contractor;

35 (b) "Inmate" means an inmate as defined in RCW 72.09.015 or a
36 person under the supervision of the department; and

37 (c) "Sexual intercourse" and "sexual contact" have the meanings
38 provided in RCW 9A.44.010.

1 **Sec. 350.** RCW 73.04.030 and 2002 c 224 s 3 are each amended to
2 read as follows:

3 Each county auditor of the several counties of the state of
4 Washington shall record upon presentation without expense, in a
5 suitable permanent record the discharge of any veteran of the armed
6 forces of the United States who is residing in the state of Washington.

7 The department of veterans affairs, in consultation with the
8 association of county auditors, shall develop and distribute to county
9 auditors the form referred to in ((~~RCW 42.17.310(1)(aaa)~~)) section 424
10 of this act entitled "request for exemption from public disclosure of
11 discharge papers."

12 The county auditor may charge a basic recording fee and
13 preservation fee that together shall not exceed a total of seven
14 dollars for the recording of the "request for exemption from public
15 disclosure of discharge papers."

16 County auditors shall develop a form for requestors of military
17 discharge papers (form DD214) to verify that the requestor is
18 authorized to receive or view the military discharge paper.

19 **Sec. 351.** RCW 74.09A.020 and 1993 c 10 s 3 are each amended to
20 read as follows:

21 (1) The medical assistance administration shall provide routine and
22 periodic computerized information to private insurers regarding client
23 eligibility and coverage information. Private insurers shall use this
24 information to identify joint beneficiaries. Identification of joint
25 beneficiaries shall be transmitted to the medical assistance
26 administration. The medical assistance administration shall use this
27 information to improve accuracy and currency of health insurance
28 coverage and promote improved coordination of benefits.

29 (2) To the maximum extent possible, necessary data elements and a
30 compatible data base shall be developed by affected health insurers and
31 the medical assistance administration. The medical assistance
32 administration shall establish a representative group of insurers and
33 state agency representatives to develop necessary technical and file
34 specifications to promote a standardized data base. The data base
35 shall include elements essential to the medical assistance
36 administration and its population's insurance coverage information.

1 (3) If the state and private insurers enter into other agreements
2 regarding the use of common computer standards, the data base
3 identified in this section shall be replaced by the new common computer
4 standards.

5 (4) The information provided will be of sufficient detail to
6 promote reliable and accurate benefit coordination and identification
7 of individuals who are also eligible for medical assistance
8 administration programs.

9 (5) The frequency of updates will be mutually agreed to by each
10 insurer and the medical assistance administration based on frequency of
11 change and operational limitations. In no event shall the computerized
12 data be provided less than semiannually.

13 (6) The insurers and the medical assistance administration shall
14 safeguard and properly use the information to protect records as
15 provided by law, including but not limited to chapters 42.48, 74.09,
16 74.04, and 70.02 RCW, (~~RCW 42.17.310~~) chapter 42.30 RCW, and 42
17 U.S.C. Sec. 1396a and 42 C.F.R. Sec. 43 et seq. The purpose of this
18 exchange of information is to improve coordination and administration
19 of benefits and ensure that medical insurance benefits are properly
20 utilized.

21 (7) The medical assistance administration shall target
22 implementation of this chapter to those private insurers with the
23 highest probability of joint beneficiaries.

24 **Sec. 352.** RCW 74.13.500 and 1999 c 339 s 1 are each amended to
25 read as follows:

26 (1) Consistent with the provisions of chapter (~~42.17~~) 42.30 RCW
27 and applicable federal law, the secretary, or the secretary's designee,
28 shall disclose information regarding the abuse or neglect of a child,
29 the investigation of the abuse, neglect, or near fatality of a child,
30 and any services related to the abuse or neglect of a child if any one
31 of the following factors is present:

32 (a) The subject of the report has been charged in an accusatory
33 instrument with committing a crime related to a report maintained by
34 the department in its case and management information system;

35 (b) The investigation of the abuse or neglect of the child by the
36 department or the provision of services by the department has been
37 publicly disclosed in a report required to be disclosed in the course

1 of their official duties, by a law enforcement agency or official, a
2 prosecuting attorney, any other state or local investigative agency or
3 official, or by a judge of the superior court;

4 (c) There has been a prior knowing, voluntary public disclosure by
5 an individual concerning a report of child abuse or neglect in which
6 such individual is named as the subject of the report; or

7 (d) The child named in the report has died and the child's death
8 resulted from abuse or neglect or the child was in the care of, or
9 receiving services from the department at the time of death or within
10 twelve months before death.

11 (2) The secretary is not required to disclose information if the
12 factors in subsection (1) of this section are present if he or she
13 specifically determines the disclosure is contrary to the best
14 interests of the child, the child's siblings, or other children in the
15 household.

16 (3) Except for cases in subsection (1)(d) of this section, requests
17 for information under this section shall specifically identify the case
18 about which information is sought and the facts that support a
19 determination that one of the factors specified in subsection (1) of
20 this section is present.

21 (4) For the purposes of this section, "near fatality" means an act
22 that, as certified by a physician, places the child in serious or
23 critical condition. The secretary is under no obligation to have an
24 act certified by a physician in order to comply with this section.

25 **Sec. 353.** RCW 74.13.515 and 1997 c 305 s 5 are each amended to
26 read as follows:

27 For purposes of RCW 74.13.500(1)(d), the secretary must make the
28 fullest possible disclosure consistent with chapter (~~(42.17)~~) 42.30 RCW
29 and applicable federal law in cases of all fatalities of children who
30 were in the care of, or receiving services from, the department at the
31 time of their death or within the twelve months previous to their
32 death.

33 If the secretary specifically determines that disclosure of the
34 name of the deceased child is contrary to the best interests of the
35 child's siblings or other children in the household, the secretary may
36 remove personally identifying information.

1 For the purposes of this section, "personally identifying
2 information" means the name, street address, social security number,
3 and day of birth of the child who died and of private persons who are
4 relatives of the child named in child welfare records. "Personally
5 identifying information" shall not include the month or year of birth
6 of the child who has died. Once this personally identifying
7 information is removed, the remainder of the records pertaining to a
8 child who has died must be released regardless of whether the remaining
9 facts in the records are embarrassing to the unidentifiable other
10 private parties or to identifiable public workers who handled the case.

11 **Sec. 354.** RCW 74.13.525 and 1997 c 305 s 7 are each amended to
12 read as follows:

13 The department, when acting in good faith, is immune from any
14 criminal or civil liability, except as provided under RCW 42.17.340 (as
15 recodified by this act), for any action taken under RCW 74.13.500
16 through 74.13.520.

17 **Sec. 355.** RCW 74.34.063 and 1999 c 176 s 8 are each amended to
18 read as follows:

19 (1) The department shall initiate a response to a report, no later
20 than twenty-four hours after knowledge of the report, of suspected
21 abandonment, abuse, financial exploitation, neglect, or self-neglect of
22 a vulnerable adult.

23 (2) When the initial report or investigation by the department
24 indicates that the alleged abandonment, abuse, financial exploitation,
25 or neglect may be criminal, the department shall make an immediate
26 report to the appropriate law enforcement agency. The department and
27 law enforcement will coordinate in investigating reports made under
28 this chapter. The department may provide protective services and other
29 remedies as specified in this chapter.

30 (3) The law enforcement agency or the department shall report the
31 incident in writing to the proper county prosecutor or city attorney
32 for appropriate action whenever the investigation reveals that a crime
33 may have been committed.

34 (4) The department and law enforcement may share information
35 contained in reports and findings of abandonment, abuse, financial

1 exploitation, and neglect of vulnerable adults, consistent with RCW
2 74.04.060, (~~(42.17.310)~~) chapter 42.30 RCW, and other applicable
3 confidentiality laws.

4 (5) The department shall notify the proper licensing authority
5 concerning any report received under this chapter that alleges that a
6 person who is professionally licensed, certified, or registered under
7 Title 18 RCW has abandoned, abused, financially exploited, or neglected
8 a vulnerable adult.

9 **Sec. 356.** RCW 74.39A.200 and 2000 c 121 s 11 are each amended to
10 read as follows:

11 All training curricula and material, except competency testing
12 material, developed by or for the department and used in part or in
13 whole for the purpose of improving provider and caregiver knowledge and
14 skill are in the public domain unless otherwise protected by copyright
15 law and are subject to disclosure under chapter (~~(42.17)~~) 42.30 RCW.
16 Any training curricula and material developed by a private entity
17 through a contract with the department are also considered part of the
18 public domain and shall be shared subject to copyright restrictions.
19 Any proprietary curricula and material developed by a private entity
20 for the purposes of training staff in facilities licensed under chapter
21 18.20 or 70.128 RCW or individual providers and home care agency
22 providers under this chapter and approved for training by the
23 department are not part of the public domain.

24 **Sec. 357.** RCW 74.46.820 and 1998 c 322 s 43 are each amended to
25 read as follows:

26 (1) Cost reports and their final audit reports filed by the
27 contractor shall be subject to public disclosure pursuant to the
28 requirements of chapter (~~(42.17)~~) 42.30 RCW.

29 (2) Subsection (1) of this section does not prevent a contractor
30 from having access to its own records or from authorizing an agent or
31 designee to have access to the contractor's records.

32 (3) Regardless of whether any document or report submitted to the
33 secretary pursuant to this chapter is subject to public disclosure,
34 copies of such documents or reports shall be provided by the secretary,
35 upon written request, to the legislature and to state agencies or state

1 or local law enforcement officials who have an official interest in the
2 contents thereof.

3 **Sec. 358.** RCW 76.09.060 and 2003 c 314 s 5 are each amended to
4 read as follows:

5 The following shall apply to those forest practices administered
6 and enforced by the department and for which the board shall promulgate
7 regulations as provided in this chapter:

8 (1) The department shall prescribe the form and contents of the
9 notification and application. The forest practices rules shall specify
10 by whom and under what conditions the notification and application
11 shall be signed or otherwise certified as acceptable. The application
12 or notification shall be delivered in person to the department, sent by
13 first class mail to the department or electronically filed in a form
14 defined by the department. The form for electronic filing shall be
15 readily convertible to a paper copy, which shall be available to the
16 public pursuant to chapter ((42.17)) 42.30 RCW. The information
17 required may include, but is not limited to:

18 (a) Name and address of the forest landowner, timber owner, and
19 operator;

20 (b) Description of the proposed forest practice or practices to be
21 conducted;

22 (c) Legal description and tax parcel identification numbers of the
23 land on which the forest practices are to be conducted;

24 (d) Planimetric and topographic maps showing location and size of
25 all lakes and streams and other public waters in and immediately
26 adjacent to the operating area and showing all existing and proposed
27 roads and major tractor roads;

28 (e) Description of the silvicultural, harvesting, or other forest
29 practice methods to be used, including the type of equipment to be used
30 and materials to be applied;

31 (f) Proposed plan for reforestation and for any revegetation
32 necessary to reduce erosion potential from roadsides and yarding roads,
33 as required by the forest practices rules;

34 (g) Soil, geological, and hydrological data with respect to forest
35 practices;

36 (h) The expected dates of commencement and completion of all forest
37 practices specified in the application;

1 (i) Provisions for continuing maintenance of roads and other
2 construction or other measures necessary to afford protection to public
3 resources;

4 (j) An affirmation that the statements contained in the
5 notification or application are true; and

6 (k) All necessary application or notification fees.

7 (2) Long range plans may be submitted to the department for review
8 and consultation.

9 (3) The application for a forest practice or the notification of a
10 Class II forest practice is subject to the three-year reforestation
11 requirement.

12 (a) If the application states that any such land will be or is
13 intended to be so converted:

14 (i) The reforestation requirements of this chapter and of the
15 forest practices rules shall not apply if the land is in fact so
16 converted unless applicable alternatives or limitations are provided in
17 forest practices rules issued under RCW 76.09.070 as now or hereafter
18 amended;

19 (ii) Completion of such forest practice operations shall be deemed
20 conversion of the lands to another use for purposes of chapters 84.33
21 and 84.34 RCW unless the conversion is to a use permitted under a
22 current use tax agreement permitted under chapter 84.34 RCW;

23 (iii) The forest practices described in the application are subject
24 to applicable county, city, town, and regional governmental authority
25 permitted under RCW 76.09.240 as now or hereafter amended as well as
26 the forest practices rules.

27 (b) Except as provided elsewhere in this section, if the
28 application or notification does not state that any land covered by the
29 application or notification will be or is intended to be so converted:

30 (i) For six years after the date of the application the county,
31 city, town, and regional governmental entities shall deny any or all
32 applications for permits or approvals, including building permits and
33 subdivision approvals, relating to nonforestry uses of land subject to
34 the application;

35 (A) The department shall submit to the local governmental entity a
36 copy of the statement of a forest landowner's intention not to convert
37 which shall represent a recognition by the landowner that the six-year
38 moratorium shall be imposed and shall preclude the landowner's ability

1 to obtain development permits while the moratorium is in place. This
2 statement shall be filed by the local governmental entity with the
3 county recording officer, who shall record the documents as provided in
4 chapter 65.04 RCW, except that lands designated as forest lands of
5 long-term commercial significance under chapter 36.70A RCW shall not be
6 recorded due to the low likelihood of conversion. Not recording the
7 statement of a forest landowner's conversion intention shall not be
8 construed to mean the moratorium is not in effect.

9 (B) The department shall collect the recording fee and reimburse
10 the local governmental entity for the cost of recording the
11 application.

12 (C) When harvesting takes place without an application, the local
13 governmental entity shall impose the six-year moratorium provided in
14 (b)(i) of this subsection from the date the unpermitted harvesting was
15 discovered by the department or the local governmental entity.

16 (D) The local governmental entity shall develop a process for
17 lifting the six-year moratorium, which shall include public
18 notification, and procedures for appeals and public hearings.

19 (E) The local governmental entity may develop an administrative
20 process for lifting or waiving the six-year moratorium for the purposes
21 of constructing a single-family residence or outbuildings, or both, on
22 a legal lot and building site. Lifting or waiving of the six-year
23 moratorium is subject to compliance with all local ordinances.

24 (F) The six-year moratorium shall not be imposed on a forest
25 practices application that contains a conversion option harvest plan
26 approved by the local governmental entity unless the forest practice
27 was not in compliance with the approved forest practice permit. Where
28 not in compliance with the conversion option harvest plan, the six-year
29 moratorium shall be imposed from the date the application was approved
30 by the department or the local governmental entity;

31 (ii) Failure to comply with the reforestation requirements
32 contained in any final order or decision shall constitute a removal of
33 designation under the provisions of RCW 84.33.140, and a change of use
34 under the provisions of RCW 84.34.080, and, if applicable, shall
35 subject such lands to the payments and/or penalties resulting from such
36 removals or changes; and

37 (iii) Conversion to a use other than commercial forest product
38 operations within six years after approval of the forest practices

1 without the consent of the county, city, or town shall constitute a
2 violation of each of the county, municipal city, town, and regional
3 authorities to which the forest practice operations would have been
4 subject if the application had so stated.

5 (c) The application or notification shall be signed by the forest
6 landowner and accompanied by a statement signed by the forest landowner
7 indicating his or her intent with respect to conversion and
8 acknowledging that he or she is familiar with the effects of this
9 subsection.

10 (4) Whenever an approved application authorizes a forest practice
11 which, because of soil condition, proximity to a water course or other
12 unusual factor, has a potential for causing material damage to a public
13 resource, as determined by the department, the applicant shall, when
14 requested on the approved application, notify the department two days
15 before the commencement of actual operations.

16 (5) Before the operator commences any forest practice in a manner
17 or to an extent significantly different from that described in a
18 previously approved application or notification, there shall be
19 submitted to the department a new application or notification form in
20 the manner set forth in this section.

21 (6) Except as provided in RCW 76.09.350(4), the notification to or
22 the approval given by the department to an application to conduct a
23 forest practice shall be effective for a term of two years from the
24 date of approval or notification and shall not be renewed unless a new
25 application is filed and approved or a new notification has been filed.
26 At the option of the applicant, an application or notification may be
27 submitted to cover a single forest practice or a number of forest
28 practices within reasonable geographic or political boundaries as
29 specified by the department. An application or notification that
30 covers more than one forest practice may have an effective term of more
31 than two years. The board shall adopt rules that establish standards
32 and procedures for approving an application or notification that has an
33 effective term of more than two years. Such rules shall include
34 extended time periods for application or notification approval or
35 disapproval. On an approved application with a term of more than two
36 years, the applicant shall inform the department before commencing
37 operations.

1 (7) Notwithstanding any other provision of this section, no prior
2 application or notification shall be required for any emergency forest
3 practice necessitated by fire, flood, windstorm, earthquake, or other
4 emergency as defined by the board, but the operator shall submit an
5 application or notification, whichever is applicable, to the department
6 within forty-eight hours after commencement of such practice or as
7 required by local regulations.

8 (8) Forest practices applications or notifications are not required
9 for forest practices conducted to control exotic forest insect or
10 disease outbreaks, when conducted by or under the direction of the
11 department of agriculture in carrying out an order of the governor or
12 director of the department of agriculture to implement pest control
13 measures as authorized under chapter 17.24 RCW, and are not required
14 when conducted by or under the direction of the department in carrying
15 out emergency measures under a forest health emergency declaration by
16 the commissioner of public lands as provided in RCW 76.06.130.

17 (a) For the purposes of this subsection, exotic forest insect or
18 disease has the same meaning as defined in RCW 76.06.020.

19 (b) In order to minimize adverse impacts to public resources,
20 control measures must be based on integrated pest management, as
21 defined in RCW 17.15.010, and must follow forest practices rules
22 relating to road construction and maintenance, timber harvest, and
23 forest chemicals, to the extent possible without compromising control
24 objectives.

25 (c) Agencies conducting or directing control efforts must provide
26 advance notice to the appropriate regulatory staff of the department of
27 the operations that would be subject to exemption from forest practices
28 application or notification requirements.

29 (d) When the appropriate regulatory staff of the department are
30 notified under (c) of this subsection, they must consult with the
31 landowner, interested agencies, and affected tribes, and assist the
32 notifying agencies in the development of integrated pest management
33 plans that comply with forest practices rules as required under (b) of
34 this subsection.

35 (e) Nothing under this subsection relieves agencies conducting or
36 directing control efforts from requirements of the federal clean water
37 act as administered by the department of ecology under RCW 90.48.260.

1 (f) Forest lands where trees have been cut as part of an exotic
2 forest insect or disease control effort under this subsection are
3 subject to reforestation requirements under RCW 76.09.070.

4 (g) The exemption from obtaining approved forest practices
5 applications or notifications does not apply to forest practices
6 conducted after the governor, the director of the department of
7 agriculture, or the commissioner of public lands have declared that an
8 emergency no longer exists because control objectives have been met,
9 that there is no longer an imminent threat, or that there is no longer
10 a good likelihood of control.

11 **Sec. 359.** RCW 80.04.095 and 1987 c 107 s 1 are each amended to
12 read as follows:

13 Records, subject to chapter (~~42.17~~) 42.30 RCW, filed with the
14 commission or the attorney general from any person which contain
15 valuable commercial information, including trade secrets or
16 confidential marketing, cost, or financial information, or customer-
17 specific usage and network configuration and design information, shall
18 not be subject to inspection or copying under chapter (~~42.17~~) 42.30
19 RCW: (1) Until notice to the person or persons directly affected has
20 been given; and (2) if, within ten days of the notice, the person has
21 obtained a superior court order protecting the records as confidential.
22 The court shall determine that the records are confidential and not
23 subject to inspection and copying if disclosure would result in private
24 loss, including an unfair competitive disadvantage. When providing
25 information to the commission or the attorney general, a person shall
26 designate which records or portions of records contain valuable
27 commercial information. Nothing in this section shall prevent the use
28 of protective orders by the commission governing disclosure of
29 proprietary or confidential information in contested proceedings.

30 **Sec. 360.** RCW 81.104.115 and 2001 c 127 s 1 are each amended to
31 read as follows:

32 (1) The department may collect and review the system safety and
33 security program plan prepared by each owner or operator of a rail
34 fixed guideway system. In carrying out this function, the department
35 may adopt rules specifying the elements and standard to be contained in
36 a system safety and security program plan, and the content of any

1 investigation report, corrective action plan, and accompanying
2 implementation schedule resulting from a reportable accident,
3 unacceptable hazardous condition, or security breach. These rules may
4 include due dates for the department's timely receipt of and response
5 to required documents.

6 (2) The security section of the system safety and security plan as
7 described in subsection (1)(d) of RCW 35.21.228, 35A.21.300, 36.01.210,
8 36.57.120, 36.57A.170, and 81.112.180 are exempt from public disclosure
9 under chapter ((42.17)) 42.30 RCW by the department when collected from
10 the owners and operators of fixed railway systems. However, the
11 activities and plans as described in subsection (1)(a), (b), and (c) of
12 RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and
13 81.112.180 are not exempt from public disclosure.

14 (3) The department shall audit each system safety and security
15 program plan at least once every three years. The department may
16 contract with other persons or entities for the performance of duties
17 required by this subsection. The department shall provide at least
18 thirty days' advance notice to the owner or operator of a rail fixed
19 guideway system before commencing the audit. The owner or operator of
20 each rail fixed guideway system shall reimburse the reasonable expenses
21 of the department in carrying out its responsibilities of this
22 subsection within ninety days after receipt of an invoice. The
23 department shall notify the owner or operator of the estimated expenses
24 at least six months in advance of when the department audits the
25 system.

26 (4) In the event of a reportable accident, unacceptable hazardous
27 condition, or security breach, the department shall review the
28 investigation report, corrective action plan, and accompanying
29 implementation schedule, submitted by the owner or operator of the rail
30 fixed guideway system to ensure that it meets the goal of preventing
31 and mitigating a recurrence of the reportable accident, unacceptable
32 hazardous condition, or security breach.

33 (a) The department may, at its option, perform a separate,
34 independent investigation of a reportable accident, unacceptable
35 hazardous condition, or security breach. The department may contract
36 with other persons or entities for the performance of duties required
37 by this subsection.

1 (b) If the department does not concur with the investigation
2 report, corrective action plan, and accompanying implementation
3 schedule, submitted by the owner or operator, the department shall
4 notify that owner or operator in writing within forty-five days of its
5 receipt of the complete investigation report, corrective action plan,
6 and accompanying implementation schedule.

7 (5) The secretary may adopt rules to implement this section and RCW
8 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and
9 81.112.180, including rules establishing procedures and timelines for
10 owners and operators of rail fixed guideway systems to comply with RCW
11 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180
12 and the rules adopted under this section. If noncompliance by an owner
13 or operator of a rail fixed guideway system results in the loss of
14 federal funds to the state of Washington or a political subdivision of
15 the state, the owner or operator is liable to the affected entity or
16 entities for the amount of the lost funds.

17 (6) The department may impose sanctions upon owners and operators
18 of rail fixed guideway systems, but only for failure to meet reasonable
19 deadlines for submission of required reports and audits. The
20 department is expressly prohibited from imposing sanctions for any
21 other purposes, including, but not limited to, differences in format or
22 content of required reports and audits.

23 (7) The department and its employees have no liability arising from
24 the adoption of rules; the review of or concurrence in a system safety
25 and security program plan; the separate, independent investigation of
26 a reportable accident, unacceptable hazardous condition, or security
27 breach; and the review of or concurrence in a corrective action plan
28 for a reportable accident, unacceptable hazardous condition, or
29 security breach.

30 **Sec. 361.** RCW 81.112.180 and 1999 c 202 s 6 are each amended to
31 read as follows:

32 (1) Each regional transit authority that owns or operates a rail
33 fixed guideway system as defined in RCW 81.104.015 shall submit a
34 system safety and security program plan for that guideway to the state
35 department of transportation by September 1, 1999, or at least three
36 months before beginning operations or instituting revisions to its
37 plan. This plan must describe the authority's procedures for (a)

1 reporting and investigating reportable accidents, unacceptable
2 hazardous conditions, and security breaches, (b) submitting corrective
3 action plans and annual safety and security audit reports, (c)
4 facilitating on-site safety and security reviews by the state
5 department of transportation, and (d) addressing passenger and employee
6 security. The plan must, at a minimum, conform to the standards
7 adopted by the state department of transportation. If required by the
8 department, the regional transit authority shall revise its plan to
9 incorporate the department's review comments within sixty days after
10 their receipt, and resubmit its revised plan for review.

11 (2) Each regional transit authority shall implement and comply with
12 its system safety and security program plan. The regional transit
13 authority shall perform internal safety and security audits to evaluate
14 its compliance with the plan, and submit its audit schedule to the
15 department of transportation no later than December 15th each year.
16 The regional transit authority shall prepare an annual report for its
17 internal safety and security audits undertaken in the prior year and
18 submit it to the department no later than February 15th. This annual
19 report must include the dates the audits were conducted, the scope of
20 the audit activity, the audit findings and recommendations, the status
21 of any corrective actions taken as a result of the audit activity, and
22 the results of each audit in terms of the adequacy and effectiveness of
23 the plan.

24 (3) Each regional transit authority shall notify the department of
25 transportation within twenty-four hours of an occurrence of a
26 reportable accident, unacceptable hazardous condition, or security
27 breach. The department may adopt rules further defining a reportable
28 accident, unacceptable hazardous condition, or security breach. The
29 regional transit authority shall investigate all reportable accidents,
30 unacceptable hazardous conditions, or security breaches and provide a
31 written investigation report to the department within forty-five
32 calendar days after the reportable accident, unacceptable hazardous
33 condition, or security breach.

34 (4) The security section of the safety and security plan required
35 in subsection (1)(d) of this section is exempt from public disclosure
36 under chapter (~~42.17~~) 42.30 RCW. However, the activities and plans
37 as described in subsections (1)(a), (b), and (c), (2), and (3) of this
38 section are not subject to this exemption.

1 **Sec. 362.** RCW 82.32.330 and 2000 c 173 s 1 and 2000 c 106 s 1 are
2 each reenacted and amended to read as follows:

3 (1) For purposes of this section:

4 (a) "Disclose" means to make known to any person in any manner
5 whatever a return or tax information;

6 (b) "Return" means a tax or information return or claim for refund
7 required by, or provided for or permitted under, the laws of this state
8 which is filed with the department of revenue by, on behalf of, or with
9 respect to a person, and any amendment or supplement thereto, including
10 supporting schedules, attachments, or lists that are supplemental to,
11 or part of, the return so filed;

12 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
13 nature, source, or amount of the taxpayer's income, payments, receipts,
14 deductions, exemptions, credits, assets, liabilities, net worth, tax
15 liability deficiencies, overassessments, or tax payments, whether taken
16 from the taxpayer's books and records or any other source, (iii)
17 whether the taxpayer's return was, is being, or will be examined or
18 subject to other investigation or processing, (iv) a part of a written
19 determination that is not designated as a precedent and disclosed
20 pursuant to RCW 82.32.410, or a background file document relating to a
21 written determination, and (v) other data received by, recorded by,
22 prepared by, furnished to, or collected by the department of revenue
23 with respect to the determination of the existence, or possible
24 existence, of liability, or the amount thereof, of a person under the
25 laws of this state for a tax, penalty, interest, fine, forfeiture, or
26 other imposition, or offense: PROVIDED, That data, material, or
27 documents that do not disclose information related to a specific or
28 identifiable taxpayer do not constitute tax information under this
29 section. Except as provided by RCW 82.32.410, nothing in this chapter
30 shall require any person possessing data, material, or documents made
31 confidential and privileged by this section to delete information from
32 such data, material, or documents so as to permit its disclosure;

33 (d) "State agency" means every Washington state office, department,
34 division, bureau, board, commission, or other state agency;

35 (e) "Taxpayer identity" means the taxpayer's name, address,
36 telephone number, registration number, or any combination thereof, or
37 any other information disclosing the identity of the taxpayer; and

1 (f) "Department" means the department of revenue or its officer,
2 agent, employee, or representative.

3 (2) Returns and tax information shall be confidential and
4 privileged, and except as authorized by this section, neither the
5 department of revenue nor any other person may disclose any return or
6 tax information.

7 (3) The foregoing, however, shall not prohibit the department of
8 revenue from:

9 (a) Disclosing such return or tax information in a civil or
10 criminal judicial proceeding or an administrative proceeding:

11 (i) In respect of any tax imposed under the laws of this state if
12 the taxpayer or its officer or other person liable under Title 82 RCW
13 is a party in the proceeding; or

14 (ii) In which the taxpayer about whom such return or tax
15 information is sought and another state agency are adverse parties in
16 the proceeding;

17 (b) Disclosing, subject to such requirements and conditions as the
18 director shall prescribe by rules adopted pursuant to chapter 34.05
19 RCW, such return or tax information regarding a taxpayer to such
20 taxpayer or to such person or persons as that taxpayer may designate in
21 a request for, or consent to, such disclosure, or to any other person,
22 at the taxpayer's request, to the extent necessary to comply with a
23 request for information or assistance made by the taxpayer to such
24 other person: PROVIDED, That tax information not received from the
25 taxpayer shall not be so disclosed if the director determines that such
26 disclosure would compromise any investigation or litigation by any
27 federal, state, or local government agency in connection with the civil
28 or criminal liability of the taxpayer or another person, or that such
29 disclosure would identify a confidential informant, or that such
30 disclosure is contrary to any agreement entered into by the department
31 that provides for the reciprocal exchange of information with other
32 government agencies which agreement requires confidentiality with
33 respect to such information unless such information is required to be
34 disclosed to the taxpayer by the order of any court;

35 (c) Disclosing the name of a taxpayer with a deficiency greater
36 than five thousand dollars and against whom a warrant under RCW
37 82.32.210 has been either issued or filed and remains outstanding for
38 a period of at least ten working days. The department shall not be

1 required to disclose any information under this subsection if a
2 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
3 a warrant that has not been filed; and (iii) has entered a deferred
4 payment arrangement with the department of revenue and is making
5 payments upon such deficiency that will fully satisfy the indebtedness
6 within twelve months;

7 (d) Disclosing the name of a taxpayer with a deficiency greater
8 than five thousand dollars and against whom a warrant under RCW
9 82.32.210 has been filed with a court of record and remains
10 outstanding;

11 (e) Publishing statistics so classified as to prevent the
12 identification of particular returns or reports or items thereof;

13 (f) Disclosing such return or tax information, for official
14 purposes only, to the governor or attorney general, or to any state
15 agency, or to any committee or subcommittee of the legislature dealing
16 with matters of taxation, revenue, trade, commerce, the control of
17 industry or the professions;

18 (g) Permitting the department of revenue's records to be audited
19 and examined by the proper state officer, his or her agents and
20 employees;

21 (h) Disclosing any such return or tax information to a peace
22 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for
23 official purposes. The disclosure may be made only in response to a
24 search warrant, subpoena, or other court order, unless the disclosure
25 is for the purpose of criminal tax enforcement. A peace officer or
26 county prosecuting attorney who receives the return or tax information
27 may disclose that return or tax information only for use in the
28 investigation and a related court proceeding, or in the court
29 proceeding for which the return or tax information originally was
30 sought;

31 (i) Disclosing any such return or tax information to the proper
32 officer of the internal revenue service of the United States, the
33 Canadian government or provincial governments of Canada, or to the
34 proper officer of the tax department of any state or city or town or
35 county, for official purposes, but only if the statutes of the United
36 States, Canada or its provincial governments, or of such other state or
37 city or town or county, as the case may be, grants substantially
38 similar privileges to the proper officers of this state;

1 (j) Disclosing any such return or tax information to the Department
2 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
3 Department of the Treasury, the Department of Defense, the United
4 States Customs Service, the Coast Guard of the United States, and the
5 United States Department of Transportation, or any authorized
6 representative thereof, for official purposes;

7 (k) Publishing or otherwise disclosing the text of a written
8 determination designated by the director as a precedent pursuant to RCW
9 82.32.410;

10 (l) Disclosing, in a manner that is not associated with other tax
11 information, the taxpayer name, entity type, business address, mailing
12 address, revenue tax registration numbers, North American industry
13 classification system or standard industrial classification code of a
14 taxpayer, and the dates of opening and closing of business. This
15 subsection shall not be construed as giving authority to the department
16 to give, sell, or provide access to any list of taxpayers for any
17 commercial purpose;

18 (m) Disclosing such return or tax information that is also
19 maintained by another Washington state or local governmental agency as
20 a public record available for inspection and copying under the
21 provisions of chapter ((42.17)) 42.30 RCW or is a document maintained
22 by a court of record not otherwise prohibited from disclosure;

23 (n) Disclosing such return or tax information to the United States
24 department of agriculture for the limited purpose of investigating food
25 stamp fraud by retailers;

26 (o) Disclosing to a financial institution, escrow company, or title
27 company, in connection with specific real property that is the subject
28 of a real estate transaction, current amounts due the department for a
29 filed tax warrant, judgment, or lien against the real property; or

30 (p) Disclosing to a person against whom the department has asserted
31 liability as a successor under RCW 82.32.140 return or tax information
32 pertaining to the specific business of the taxpayer to which the person
33 has succeeded.

34 (4)(a) The department may disclose return or taxpayer information
35 to a person under investigation or during any court or administrative
36 proceeding against a person under investigation as provided in this
37 subsection (4). The disclosure must be in connection with the
38 department's official duties relating to an audit, collection activity,

1 or a civil or criminal investigation. The disclosure may occur only
2 when the person under investigation and the person in possession of
3 data, materials, or documents are parties to the return or tax
4 information to be disclosed. The department may disclose return or tax
5 information such as invoices, contracts, bills, statements, resale or
6 exemption certificates, or checks. However, the department may not
7 disclose general ledgers, sales or cash receipt journals, check
8 registers, accounts receivable/payable ledgers, general journals,
9 financial statements, expert's workpapers, income tax returns, state
10 tax returns, tax return workpapers, or other similar data, materials,
11 or documents.

12 (b) Before disclosure of any tax return or tax information under
13 this subsection (4), the department shall, through written
14 correspondence, inform the person in possession of the data, materials,
15 or documents to be disclosed. The correspondence shall clearly
16 identify the data, materials, or documents to be disclosed. The
17 department may not disclose any tax return or tax information under
18 this subsection (4) until the time period allowed in (c) of this
19 subsection has expired or until the court has ruled on any challenge
20 brought under (c) of this subsection.

21 (c) The person in possession of the data, materials, or documents
22 to be disclosed by the department has twenty days from the receipt of
23 the written request required under (b) of this subsection to petition
24 the superior court of the county in which the petitioner resides for
25 injunctive relief. The court shall limit or deny the request of the
26 department if the court determines that:

27 (i) The data, materials, or documents sought for disclosure are
28 cumulative or duplicative, or are obtainable from some other source
29 that is more convenient, less burdensome, or less expensive;

30 (ii) The production of the data, materials, or documents sought
31 would be unduly burdensome or expensive, taking into account the needs
32 of the department, the amount in controversy, limitations on the
33 petitioner's resources, and the importance of the issues at stake; or

34 (iii) The data, materials, or documents sought for disclosure
35 contain trade secret information that, if disclosed, could harm the
36 petitioner.

37 (d) The department shall reimburse reasonable expenses for the

1 production of data, materials, or documents incurred by the person in
2 possession of the data, materials, or documents to be disclosed.

3 (e) Requesting information under (b) of this subsection that may
4 indicate that a taxpayer is under investigation does not constitute a
5 disclosure of tax return or tax information under this section.

6 (5) Any person acquiring knowledge of any return or tax information
7 in the course of his or her employment with the department of revenue
8 and any person acquiring knowledge of any return or tax information as
9 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this
10 section, who discloses any such return or tax information to another
11 person not entitled to knowledge of such return or tax information
12 under the provisions of this section, is guilty of a misdemeanor. If
13 the person guilty of such violation is an officer or employee of the
14 state, such person shall forfeit such office or employment and shall be
15 incapable of holding any public office or employment in this state for
16 a period of two years thereafter.

17 **Sec. 363.** RCW 82.32.410 and 2001 c 320 s 10 are each amended to
18 read as follows:

19 (1) The director may designate certain written determinations as
20 precedents.

21 (a) By rule adopted pursuant to chapter 34.05 RCW, the director
22 shall adopt criteria which he or she shall use to decide whether a
23 determination is precedential. These criteria shall include, but not
24 be limited to, whether the determination clarifies an unsettled
25 interpretation of Title 82 RCW or where the determination modifies or
26 clarifies an earlier interpretation.

27 (b) Written determinations designated as precedents by the director
28 shall be made available for public inspection and shall be published by
29 the department.

30 (c) The department shall disclose any written determination upon
31 which it relies to support any assessment of tax, interest, or penalty
32 against such taxpayer, after making the deletions provided by
33 subsection (2) of this section.

34 (2) Before making a written determination available for public
35 inspection under subsection (1) of this section, the department shall
36 delete:

1 (a) The names, addresses, and other identifying details of the
2 person to whom the written determination pertains and of another person
3 identified in the written determination; and

4 (b) Information the disclosure of which is specifically prohibited
5 by any statute applicable to the department of revenue, and the
6 department may also delete other information exempted from disclosure
7 by chapter ((42.17)) 42.30 RCW or any other statute applicable to the
8 department of revenue.

9 **Sec. 364.** RCW 84.08.210 and 1997 c 239 s 1 are each amended to
10 read as follows:

11 (1) For purposes of this section, "tax information" means
12 confidential income data and proprietary business information obtained
13 by the department in the course of carrying out the duties now or
14 hereafter imposed upon it in this title that has been communicated in
15 confidence in connection with the assessment of property and that has
16 not been publicly disseminated by the taxpayer, the disclosure of which
17 would be either highly offensive to a reasonable person and not a
18 legitimate concern to the public or would result in an unfair
19 competitive disadvantage to the taxpayer.

20 (2) Tax information is confidential and privileged, and except as
21 authorized by this section, neither the department nor any other person
22 may disclose tax information.

23 (3) Subsection (2) of this section, however, does not prohibit the
24 department from:

25 (a) Disclosing tax information to any county assessor or county
26 treasurer;

27 (b) Disclosing tax information in a civil or criminal judicial
28 proceeding or an administrative proceeding in respect to taxes or
29 penalties imposed under this title or Title 82 RCW or in respect to
30 assessment or valuation for tax purposes of the property to which the
31 information or facts relate;

32 (c) Disclosing tax information with the written permission of the
33 taxpayer;

34 (d) Disclosing tax information to the proper officer of the tax
35 department of any state responsible for the imposition or collection of
36 property taxes, or for the valuation of property for tax purposes, if

1 the other state grants substantially similar privileges to the proper
2 officers of this state;

3 (e) Disclosing tax information that is also maintained by another
4 Washington state or local governmental agency as a public record
5 available for inspection and copying under chapter ((42.17)) 42.30 RCW
6 or is a document maintained by a court of record not otherwise
7 prohibited from disclosure;

8 (f) Disclosing tax information to a peace officer as defined in RCW
9 9A.04.110 or county prosecutor, for official purposes. The disclosure
10 may be made only in response to a search warrant, subpoena, or other
11 court order, unless the disclosure is for the purpose of criminal tax
12 enforcement. A peace officer or county prosecutor who receives the tax
13 information may disclose the tax information only for use in the
14 investigation and a related court proceeding, or in the court
15 proceeding for which the tax information originally was sought; or

16 (g) Disclosing information otherwise available under chapter
17 ((42.17)) 42.30 RCW.

18 (4) A violation of this section constitutes a gross misdemeanor.

19 **Sec. 365.** RCW 84.40.020 and 2001 c 187 s 16 are each amended to
20 read as follows:

21 All real property in this state subject to taxation shall be listed
22 and assessed every year, with reference to its value on the first day
23 of January of the year in which it is assessed. Such listing and all
24 supporting documents and records shall be open to public inspection
25 during the regular office hours of the assessor's office: PROVIDED,
26 That confidential income data is hereby exempted from public inspection
27 as noted in RCW 42.17.260 and 42.17.310 (as recodified by this act).
28 All personal property in this state subject to taxation shall be listed
29 and assessed every year, with reference to its value and ownership on
30 the first day of January of the year in which it is assessed:
31 PROVIDED, That if the stock of goods, wares, merchandise or material,
32 whether in a raw or finished state or in process of manufacture, owned
33 or held by any taxpayer on January 1 of any year does not fairly
34 represent the average stock carried by such taxpayer, such stock shall
35 be listed and assessed upon the basis of the monthly average of stock
36 owned or held by such taxpayer during the preceding calendar year or
37 during such portion thereof as the taxpayer was engaged in business.

1 **Sec. 366.** RCW 90.14.068 and 1997 c 440 s 1 are each amended to
2 read as follows:

3 (1) A new period for filing statements of claim for water rights is
4 established. The filing period shall begin September 1, 1997, and
5 shall end at midnight June 30, 1998. Each person or entity claiming
6 under state law a right to withdraw or divert and beneficially use
7 surface water under a right that was established before the effective
8 date of water code established by chapter 117, Laws of 1917, and any
9 person claiming under state law a right to withdraw and beneficially
10 use ground water under a right that was established before the
11 effective date of the ground water code established by chapter 263,
12 Laws of 1945, shall register the claim with the department during the
13 filing period unless the claim has been filed in the state water rights
14 claims registry before July 27, 1997. A person who claims such a right
15 and fails to register the claim as required is conclusively deemed to
16 have waived and relinquished any right, title, or interest in the
17 right. A statement filed during this filing period shall be filed as
18 provided in RCW 90.14.051 and 90.14.061 and shall be subject to the
19 provisions of this chapter regarding statements of claim. This
20 reopening of the period for filing statements of claim shall not affect
21 or impair in any respect whatsoever any water right existing prior to
22 July 27, 1997. A water right embodied in a statement of claim filed
23 under this section is subordinate to any water right embodied in a
24 permit or certificate issued under chapter 90.03 or 90.44 RCW prior to
25 the date the statement of claim is filed with the department and is
26 subordinate to any water right embodied in a statement of claim filed
27 in the water rights claims registry before July 27, 1997.

28 (2) The department of ecology shall, at least once each week during
29 the month of August 1997 and at least once each month during the filing
30 period, publish a notice regarding this new filing period in newspapers
31 of general circulation in the various regions of the state. The notice
32 shall contain the substance of the following notice:

33 WATER RIGHTS NOTICE

34 Each person or entity claiming a right to withdraw or divert
35 and beneficially use surface water under a right that was
36 established before June 7, 1917, or claiming a right to
37 withdraw and beneficially use ground water under a right that
38 was established before June 7, 1945, under the laws of the

1 state of Washington must register the claim with the department
2 of ecology, Olympia, Washington. The claim must be registered
3 on or after September 1, 1997, and not later than five o'clock
4 on June 30, 1998.

5
6 FAILURE TO REGISTER THE CLAIM
7 WILL RESULT IN A WAIVER AND
8 RELINQUISHMENT OF THE WATER
9 RIGHT OR CLAIMED WATER RIGHT

10 Registering a claim is NOT required for:

11 1. A water right that is based on the authority of a permit or
12 certificate issued by the department of ecology or one of its
13 predecessors;

14 2. A water right that is based on the exemption from permitting
15 requirements provided by RCW 90.44.050 for certain very limited
16 uses of ground water; or

17 3. A water right that is based on a statement of claim that has
18 previously been filed in the state's water rights claims
19 registry during other registration periods.

20 For further information, for a copy of the law establishing
21 this filing period, and for an explanation of the law and its
22 requirements, contact the department of ecology, Olympia,
23 Washington.

24 The department shall also prepare, make available to the public,
25 and distribute to the communications media information describing the
26 types of rights for which statements of claim need not be filed, the
27 effect of filing, the effect of RCW 90.14.071, and other information
28 relevant to filings and statements of claim.

29 (3) The department of ecology shall ensure that employees of the
30 department are readily available to respond to inquiries regarding
31 filing statements of claim and that all of the information the
32 department has at its disposal that is relevant to an inquiry regarding
33 a particular potential claim, including information regarding other
34 rights and claims in the vicinity of the potentially claimed right, is

1 available to the person making the inquiry. The department shall
2 dedicate additional staff in each of the department's regional offices
3 and in the department's central office to ensure that responses and
4 information are provided in a timely manner during each of the business
5 days during the month of August 1997 and during the new filing period.

6 (4) To assist the department in avoiding unnecessary duplication,
7 the department shall provide to a requestor, within ten working days of
8 receiving the request, the records of any water right claimed, listed,
9 recorded, or otherwise existing in the records of the department or its
10 predecessor agencies, including any report of a referee in a water
11 rights adjudication. This information shall be provided as required by
12 this subsection if the request is provided in writing from the owner of
13 the water right or from the holder of a possessory interest in any real
14 property for water right records associated with the property or if the
15 requestor is an attorney for such an owner. The information regarding
16 water rights in the area served by a regional office of the department
17 shall also be provided within ten working days to any requestor who
18 requests to review the information in person in the department's
19 regional office. The information held by the headquarters office of
20 the department shall also be provided within ten working days to any
21 requestor who requests to review the information in person in the
22 department's headquarters office. The requirements of this subsection
23 that records and information be provided to requestors within ten
24 working days may not be construed as limiting in any manner the
25 obligations of the department to provide public access to public
26 records as required by chapter ((42.17)) 42.30 RCW.

27 (5) This section does not apply to claims for the use of ground
28 water withdrawn in an area that is, during the period established by
29 subsection (2) of this section, the subject of a general adjudication
30 proceeding for water rights in superior court under RCW 90.03.110
31 through 90.03.245 and the proceeding applies to ground water rights.
32 This section does not apply to claims for the use of surface water
33 withdrawn in an area that is, during the period established by
34 subsection (2) of this section, the subject of a general adjudication
35 proceeding for water rights in superior court under RCW 90.03.110
36 through 90.03.245 and the proceeding applies to surface water rights.

37 (6) This section does not apply to claims for the use of water in

1 a ground water area or subarea for which a management program adopted
2 by the department by rule and in effect on July 27, 1997, establishes
3 acreage expansion limitations for the use of ground water.

4 **Sec. 367.** RCW 90.80.135 and 2001 c 237 s 18 are each amended to
5 read as follows:

6 (1) A board is subject to the requirements of chapter ((42.17))
7 42.30 RCW. Each board must establish and maintain records of its
8 proceedings and determinations. While in the possession of the board,
9 all such records must be made available for inspection and copies must
10 be provided to the public on request under the provisions of chapter
11 ((42.17)) 42.30 RCW.

12 (2) Upon the conclusion of its business involving a water right
13 transfer application, a board must promptly send the original copies of
14 all records relating to that application to the department for
15 recordkeeping. A board may keep a copy of the original documents.
16 After the records are transferred to the department, the responsibility
17 for making the records available under chapter ((42.17)) 42.30 RCW is
18 transferred to the department.

19 **PART III**
20 **PUBLIC DISCLOSURE EXEMPTIONS**

21 NEW SECTION. **Sec. 401.** The purpose of sections 402 through 429 of
22 this act is to reorganize the public inspection and copying exemptions
23 in RCW 42.17.310 through 42.17.31921 by creating smaller, discrete code
24 sections organized by subject matter. The legislature does not intend
25 that this act effectuate any substantive change to any public
26 inspection and copying exemption in the Revised Code of Washington.

27 **Sec. 402.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
28 each reenacted and amended to read as follows:

- 29 (1) ~~((The following are exempt from public inspection and copying:~~
30 ~~(a) Personal information in any files maintained for students in~~
31 ~~public schools, patients or clients of public institutions or public~~
32 ~~health agencies, or welfare recipients.~~
33 ~~(b) Personal information in files maintained for employees,~~

1 ~~appointees, or elected officials of any public agency to the extent~~
2 ~~that disclosure would violate their right to privacy.~~

3 ~~(c) Information required of any taxpayer in connection with the~~
4 ~~assessment or collection of any tax if the disclosure of the~~
5 ~~information to other persons would (i) be prohibited to such persons by~~
6 ~~RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the~~
7 ~~taxpayer's right to privacy or result in unfair competitive~~
8 ~~disadvantage to the taxpayer.~~

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

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

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

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

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

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

5 ~~(j) Records which are relevant to a controversy to which an agency~~
6 ~~is a party but which records would not be available to another party~~
7 ~~under the rules of pretrial discovery for causes pending in the~~
8 ~~superior courts.~~

9 ~~(k) Records, maps, or other information identifying the location of~~
10 ~~archaeological sites in order to avoid the looting or depredation of~~
11 ~~such sites.~~

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

15 ~~(m) Financial information supplied by or on behalf of a person,~~
16 ~~firm, or corporation for the purpose of qualifying to submit a bid or~~
17 ~~proposal for (i) a ferry system construction or repair contract as~~
18 ~~required by RCW 47.60.680 through 47.60.750 or (ii) highway~~
19 ~~construction or improvement as required by RCW 47.28.070.~~

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

24 ~~(o) Financial and commercial information and records supplied by~~
25 ~~private persons pertaining to export services provided pursuant to~~
26 ~~chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to~~
27 ~~export projects pursuant to RCW 43.23.035.~~

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

30 ~~(q) Records filed with the utilities and transportation commission~~
31 ~~or attorney general under RCW 80.04.095 that a court has determined are~~
32 ~~confidential under RCW 80.04.095.~~

33 ~~(r) Financial and commercial information and records supplied by~~
34 ~~businesses or individuals during application for loans or program~~
35 ~~services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,~~
36 ~~or during application for economic development loans or program~~
37 ~~services provided by any local agency.~~

1 ~~(s) Membership lists or lists of members or owners of interests of~~
2 ~~units in timeshare projects, subdivisions, camping resorts,~~
3 ~~condominiums, land developments, or common interest communities~~
4 ~~affiliated with such projects, regulated by the department of~~
5 ~~licensing, in the files or possession of the department.~~

6 ~~(t) All applications for public employment, including the names of~~
7 ~~applicants, resumes, and other related materials submitted with respect~~
8 ~~to an applicant.~~

9 ~~(u) The residential addresses or residential telephone numbers of~~
10 ~~employees or volunteers of a public agency which are held by any public~~
11 ~~agency in personnel records, public employment related records, or~~
12 ~~volunteer rosters, or are included in any mailing list of employees or~~
13 ~~volunteers of any public agency.~~

14 ~~(v) The residential addresses and residential telephone numbers of~~
15 ~~the customers of a public utility contained in the records or lists~~
16 ~~held by the public utility of which they are customers, except that~~
17 ~~this information may be released to the division of child support or~~
18 ~~the agency or firm providing child support enforcement for another~~
19 ~~state under Title IV-D of the federal social security act, for the~~
20 ~~establishment, enforcement, or modification of a support order.~~

21 ~~(w)(i) The federal social security number of individuals governed~~
22 ~~under chapter 18.130 RCW maintained in the files of the department of~~
23 ~~health, except this exemption does not apply to requests made directly~~
24 ~~to the department from federal, state, and local agencies of~~
25 ~~government, and national and state licensing, credentialing,~~
26 ~~investigatory, disciplinary, and examination organizations; (ii) the~~
27 ~~current residential address and current residential telephone number of~~
28 ~~a health care provider governed under chapter 18.130 RCW maintained in~~
29 ~~the files of the department, if the provider requests that this~~
30 ~~information be withheld from public inspection and copying, and~~
31 ~~provides to the department an accurate alternate or business address~~
32 ~~and business telephone number. On or after January 1, 1995, the~~
33 ~~current residential address and residential telephone number of a~~
34 ~~health care provider governed under RCW 18.130.040 maintained in the~~
35 ~~files of the department shall automatically be withheld from public~~
36 ~~inspection and copying unless the provider specifically requests the~~
37 ~~information be released, and except as provided for under RCW~~
38 ~~42.17.260(9).~~

1 ~~(x) Information obtained by the board of pharmacy as provided in~~
2 ~~RCW 69.45.090.~~

3 ~~(y) Information obtained by the board of pharmacy or the department~~
4 ~~of health and its representatives as provided in RCW 69.41.044,~~
5 ~~69.41.280, and 18.64.420.~~

6 ~~(z) Financial information, business plans, examination reports, and~~
7 ~~any information produced or obtained in evaluating or examining a~~
8 ~~business and industrial development corporation organized or seeking~~
9 ~~certification under chapter 31.24 RCW.~~

10 ~~(aa) Financial and commercial information supplied to the state~~
11 ~~investment board by any person when the information relates to the~~
12 ~~investment of public trust or retirement funds and when disclosure~~
13 ~~would result in loss to such funds or in private loss to the providers~~
14 ~~of this information.~~

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

16 ~~(cc) Client records maintained by an agency that is a domestic~~
17 ~~violence program as defined in RCW 70.123.020 or 70.123.075 or a rape~~
18 ~~crisis center as defined in RCW 70.125.030.~~

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

25 ~~(ee) Investigative records compiled by an employing agency~~
26 ~~conducting a current investigation of a possible unfair practice under~~
27 ~~chapter 49.60 RCW or of a possible violation of other federal, state,~~
28 ~~or local laws prohibiting discrimination in employment.~~

29 ~~(ff) Business related information protected from public inspection~~
30 ~~and copying under RCW 15.86.110.~~

31 ~~(gg) Financial, commercial, operations, and technical and research~~
32 ~~information and data submitted to or obtained by the clean Washington~~
33 ~~center in applications for, or delivery of, program services under~~
34 ~~chapter 70.95H RCW.~~

35 ~~(hh) Information and documents created specifically for, and~~
36 ~~collected and maintained by a quality improvement committee pursuant to~~
37 ~~RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW~~

1 ~~4.24.250, regardless of which agency is in possession of the~~
2 ~~information and documents.~~

3 ~~(ii) Personal information in files maintained in a data base~~
4 ~~created under RCW 43.07.360.~~

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

8 ~~(kk) Names of individuals residing in emergency or transitional~~
9 ~~housing that are furnished to the department of revenue or a county~~
10 ~~assessor in order to substantiate a claim for property tax exemption~~
11 ~~under RCW 84.36.043.~~

12 ~~(ll) The names, residential addresses, residential telephone~~
13 ~~numbers, and other individually identifiable records held by an agency~~
14 ~~in relation to a vanpool, carpool, or other ride sharing program or~~
15 ~~service. However, these records may be disclosed to other persons who~~
16 ~~apply for ride matching services and who need that information in order~~
17 ~~to identify potential riders or drivers with whom to share rides.~~

18 ~~(mm) The personally identifying information of current or former~~
19 ~~participants or applicants in a paratransit or other transit service~~
20 ~~operated for the benefit of persons with disabilities or elderly~~
21 ~~persons.~~

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

32 ~~(oo) Proprietary financial and commercial information that the~~
33 ~~submitting entity, with review by the department of health,~~
34 ~~specifically identifies at the time it is submitted and that is~~
35 ~~provided to or obtained by the department of health in connection with~~
36 ~~an application for, or the supervision of, an antitrust exemption~~
37 ~~sought by the submitting entity under RCW 43.72.310. If a request for~~
38 ~~such information is received, the submitting entity must be notified of~~

1 the request. Within ten business days of receipt of the notice, the
2 submitting entity shall provide a written statement of the continuing
3 need for confidentiality, which shall be provided to the requester.
4 Upon receipt of such notice, the department of health shall continue to
5 treat information designated under this section as exempt from
6 disclosure. If the requester initiates an action to compel disclosure
7 under this chapter, the submitting entity must be joined as a party to
8 demonstrate the continuing need for confidentiality.

9 ~~(pp) Records maintained by the board of industrial insurance
10 appeals that are related to appeals of crime victims' compensation
11 claims filed with the board under RCW 7.68.110.~~

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

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

22 ~~(ss) Credit card numbers, debit card numbers, electronic check
23 numbers, card expiration dates, or bank or other financial account
24 numbers, except when disclosure is expressly required by or governed by
25 other law.~~

26 ~~(tt) Financial information, including but not limited to account
27 numbers and values, and other identification numbers supplied by or on
28 behalf of a person, firm, corporation, limited liability company,
29 partnership, or other entity related to an application for a liquor
30 license, gambling license, or lottery retail license.~~

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

34 ~~(vv) Individually identifiable information received by the work
35 force training and education coordinating board for research or
36 evaluation purposes.~~

37 ~~(ww) Those portions of records assembled, prepared, or maintained
38 to prevent, mitigate, or respond to criminal terrorist acts, which are~~

1 acts that significantly disrupt the conduct of government or of the
2 general civilian population of the state or the United States and that
3 manifest an extreme indifference to human life, the public disclosure
4 of which would have a substantial likelihood of threatening public
5 safety, consisting of:

6 (i) Specific and unique vulnerability assessments or specific and
7 unique response or deployment plans, including compiled underlying data
8 collected in preparation of or essential to the assessments, or to the
9 response or deployment plans; and

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

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

22 (yy) Sensitive wildlife data obtained by the department of fish and
23 wildlife. However, sensitive wildlife data may be released to
24 government agencies concerned with the management of fish and wildlife
25 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

1 ~~(zz) The personally identifying information of persons who acquire~~
2 ~~recreational licenses under RCW 77.32.010 or commercial licenses under~~
3 ~~chapter 77.65 or 77.70 RCW, except name, address of contact used by the~~
4 ~~department, and type of license, endorsement, or tag. However, the~~
5 ~~department of fish and wildlife may disclose personally identifying~~
6 ~~information to:~~

7 ~~(i) Government agencies concerned with the management of fish and~~
8 ~~wildlife resources;~~

9 ~~(ii) The department of social and health services, child support~~
10 ~~division, and to the department of licensing in order to implement RCW~~
11 ~~77.32.014 and 46.20.291; and~~

12 ~~(iii) Law enforcement agencies for the purpose of firearm~~
13 ~~possession enforcement under RCW 9.41.040.~~

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

22 ~~(ii) 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 been commingled with other records, if the veteran has~~
25 ~~recorded a "request for exemption from public disclosure of discharge~~
26 ~~papers" with the county auditor. If such a request has been recorded,~~
27 ~~these records may be released only to the veteran filing the papers,~~
28 ~~the veteran's next of kin, a deceased veteran's properly appointed~~
29 ~~personal representative or executor, a person holding the veteran's~~
30 ~~general power of attorney, or anyone else designated in writing by the~~
31 ~~veteran to receive the records.~~

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

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

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

12 ~~(ccc) Information compiled by school districts or schools in the~~
13 ~~development of their comprehensive safe school plans pursuant to RCW~~
14 ~~28A.320.125, to the extent that they identify specific vulnerabilities~~
15 ~~of school districts and each individual school.~~

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

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

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

36 ~~(2)) Except for information described in ((subsection (1)(c)(i) of~~
37 ~~this section)) section 403(3)(a) of this act and confidential income~~
38 ~~data exempted from public inspection pursuant to RCW 84.40.020, the~~

1 exemptions of this (~~section~~) chapter are inapplicable to the extent
2 that information, the disclosure of which would violate personal
3 privacy or vital governmental interests, can be deleted from the
4 specific records sought. No exemption may be construed to permit the
5 nondisclosure of statistical information not descriptive of any readily
6 identifiable person or persons.

7 (~~(3)~~) (2) Inspection or copying of any specific records exempt
8 under the provisions of this (~~section~~) chapter may be permitted if
9 the superior court in the county in which the record is maintained
10 finds, after a hearing with notice thereof to every person in interest
11 and the agency, that the exemption of such records is clearly
12 unnecessary to protect any individual's right of privacy or any vital
13 governmental function.

14 (~~(4)~~) (3) Agency responses refusing, in whole or in part,
15 inspection of any public record shall include a statement of the
16 specific exemption authorizing the withholding of the record (or part)
17 and a brief explanation of how the exemption applies to the record
18 withheld.

19 NEW SECTION. Sec. 403. The following personal information is
20 exempt from public inspection and copying under this chapter:

21 (1) Personal information in any files maintained for students in
22 public schools, patients or clients of public institutions or public
23 health agencies, or welfare recipients;

24 (2) Personal information in files maintained for employees,
25 appointees, or elected officials of any public agency to the extent
26 that disclosure would violate their right to privacy;

27 (3) Information required of any taxpayer in connection with the
28 assessment or collection of any tax if the disclosure of the
29 information to other persons would (a) be prohibited to such persons by
30 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (b) violate the
31 taxpayer's right to privacy or result in unfair competitive
32 disadvantage to the taxpayer; and

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

1 NEW SECTION. **Sec. 404.** The following law enforcement information
2 is exempt from public inspection and copying under this chapter:

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

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

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

24 (4) License applications under RCW 9.41.070; copies of license
25 applications or information on the applications may be released to law
26 enforcement or corrections agencies; and

27 (5) Information revealing the identity of child victims of sexual
28 assault who are under age eighteen. Identifying information means the
29 child victim's name, address, location, photograph, and in cases in
30 which the child victim is a relative or stepchild of the alleged
31 perpetrator, identification of the relationship between the child and
32 the alleged perpetrator.

33 NEW SECTION. **Sec. 405.** The following employment information is
34 exempt from public inspection and copying under this chapter:

35 (1) Test questions, scoring keys, and other examination data used
36 to administer a license, employment, or academic examination;

1 (2) All applications for public employment, including the names of
2 applicants, resumes, and other related materials submitted with respect
3 to an applicant;

4 (3) The residential addresses or residential telephone numbers of
5 employees or volunteers of a public agency that are held by any public
6 agency in personnel records, public employment related records, or
7 volunteer rosters, or are included in any mailing list of employees or
8 volunteers of any public agency;

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

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

19 (6) Except as provided in RCW 47.64.220, salary and employee
20 benefit information collected under RCW 47.64.220(1) and described in
21 RCW 47.64.220(2).

22 NEW SECTION. **Sec. 406.** Except as provided by chapter 8.26 RCW,
23 the contents of real estate appraisals, made for or by any agency
24 relative to the acquisition or sale of property, until the project or
25 prospective sale is abandoned or until such time as all of the property
26 has been acquired or the property to which the sale appraisal relates
27 is sold, are exempt from disclosure under this chapter. In no event
28 may disclosure be denied for more than three years after the appraisal.

29 NEW SECTION. **Sec. 407.** The following financial, commercial, and
30 proprietary information is exempt from disclosure under this chapter:

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

35 (2) Financial information supplied by or on behalf of a person,
36 firm, or corporation for the purpose of qualifying to submit a bid or

1 proposal for (a) a ferry system construction or repair contract as
2 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
3 or improvement as required by RCW 47.28.070;

4 (3) Financial and commercial information and records supplied by
5 private persons pertaining to export services provided under chapter
6 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export
7 projects under RCW 43.23.035;

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

13 (5) 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 (6) 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 (7) Financial and valuable trade information under RCW 51.36.120;

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

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

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

35 (11) Proprietary data, trade secrets, or other information that
36 relates to: (a) A vendor's unique methods of conducting business; (b)
37 data unique to the product or services of the vendor; or (c)
38 determining prices or rates to be charged for services, submitted by

1 any vendor to the department of social and health services for purposes
2 of the development, acquisition, or implementation of state purchased
3 health care as defined in RCW 41.05.011; and

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

6 (i) Financial and proprietary information collected from any person
7 and provided to the department of community, trade, and economic
8 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

9 (ii) Financial or proprietary information collected from any person
10 and provided to the department of community, trade, and economic
11 development or the office of the governor in connection with the
12 siting, recruitment, expansion, retention, or relocation of that
13 person's business and until a siting decision is made, identifying
14 information of any person supplying information under this subsection
15 and the locations being considered for siting, relocation, or expansion
16 of a business;

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

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

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

27 NEW SECTION. **Sec. 408.** Preliminary drafts, notes,
28 recommendations, and intra-agency memorandums in which opinions are
29 expressed or policies formulated or recommended are exempt under this
30 chapter, except that a specific record is not exempt when publicly
31 cited by an agency in connection with any agency action.

32 NEW SECTION. **Sec. 409.** Records that are relevant to a controversy
33 to which an agency is a party but which records would not be available
34 to another party under the rules of pretrial discovery for causes
35 pending in the superior courts are exempt from disclosure under this
36 chapter.

1 NEW SECTION. **Sec. 410.** Records, maps, or other information
2 identifying the location of archaeological sites in order to avoid the
3 looting or depredation of such sites are exempt from disclosure under
4 this chapter.

5 NEW SECTION. **Sec. 411.** Any library record, the primary purpose of
6 which is to maintain control of library materials, or to gain access to
7 information, that discloses or could be used to disclose the identity
8 of a library user is exempt from disclosure under this chapter.

9 NEW SECTION. **Sec. 412.** The following educational information is
10 exempt from disclosure under this chapter:

11 (1) Financial disclosures filed by private vocational schools under
12 chapters 28B.85 and 28C.10 RCW;

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

17 (3) Individually identifiable information received by the work
18 force training and education coordinating board for research or
19 evaluation purposes; and

20 (4) Except for public records as defined in RCW 40.14.040, any
21 records or documents obtained by a state college, university, library,
22 or archive through or concerning any gift, grant, conveyance, bequest,
23 or devise, the terms of which restrict or regulate public access to
24 those records or documents.

25 NEW SECTION. **Sec. 413.** The following information relating to
26 public utilities and transportation is exempt from disclosure under
27 this chapter:

28 (1) Records filed with the utilities and transportation commission
29 or attorney general under RCW 80.04.095 that a court has determined are
30 confidential under RCW 80.04.095;

31 (2) The residential addresses and residential telephone numbers of
32 the customers of a public utility contained in the records or lists
33 held by the public utility of which they are customers, except that
34 this information may be released to the division of child support or

1 the agency or firm providing child support enforcement for another
2 state under Title IV-D of the federal social security act, for the
3 establishment, enforcement, or modification of a support order;

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

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

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

24 (6) Records of any person that belong to a public utility district
25 or a municipally owned electrical utility, unless the law enforcement
26 authority provides the public utility district or municipally owned
27 electrical utility with a written statement in which the authority
28 states that it suspects that the particular person to whom the records
29 pertain has committed a crime and the authority has a reasonable belief
30 that the records could determine or help determine whether the
31 suspicion might be true. Information obtained in violation of this
32 subsection is inadmissible in any criminal proceeding; and

33 (7) Any information obtained by governmental agencies that is
34 collected by the use of a motor carrier intelligent transportation
35 system or any comparable information equipment attached to a truck,
36 tractor, or trailer; however, the information may be given to other
37 governmental agencies or the owners of the truck, tractor, or trailer

1 from which the information is obtained. As used in this subsection,
2 "motor carrier" has the same definition as provided in RCW 81.80.010.

3 NEW SECTION. **Sec. 414.** Membership lists or lists of members or
4 owners of interests of units in timeshare projects, subdivisions,
5 camping resorts, condominiums, land developments, or common-interest
6 communities affiliated with such projects, regulated by the department
7 of licensing, in the files or possession of the department are exempt
8 from disclosure under this chapter.

9 NEW SECTION. **Sec. 415.** (1) The federal social security number of
10 individuals governed under chapter 18.130 RCW maintained in the files
11 of the department of health is exempt from disclosure under this
12 chapter. The exemption in this section does not apply to requests made
13 directly to the department from federal, state, and local agencies of
14 government, and national and state licensing, credentialing,
15 investigatory, disciplinary, and examination organizations.

16 (2) The current residential address and current residential
17 telephone number of a health care provider governed under chapter
18 18.130 RCW maintained in the files of the department are exempt from
19 disclosure under this chapter, if the provider requests that this
20 information be withheld from public inspection and copying, and
21 provides to the department of health an accurate alternate or business
22 address and business telephone number. The current residential address
23 and residential telephone number of a health care provider governed
24 under RCW 18.130.040 maintained in the files of the department of
25 health shall automatically be withheld from public inspection and
26 copying unless the provider specifically requests the information be
27 released, and except as provided for under RCW 42.17.260(9) (as
28 recodified by this act).

29 NEW SECTION. **Sec. 416.** (1) The following health care information
30 is exempt from disclosure under this chapter:

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

33 (b) 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;

1 (c) Information and documents created specifically for, and
2 collected and maintained by a quality improvement committee under RCW
3 43.70.510 or 70.41.200, or by a peer review committee under RCW
4 4.24.250, regardless of which agency is in possession of the
5 information and documents;

6 (d)(i) Proprietary financial and commercial information that the
7 submitting entity, with review by the department of health,
8 specifically identifies at the time it is submitted and that is
9 provided to or obtained by the department of health in connection with
10 an application for, or the supervision of, an antitrust exemption
11 sought by the submitting entity under RCW 43.72.310;

12 (ii) If a request for such information is received, the submitting
13 entity must be notified of the request. Within ten business days of
14 receipt of the notice, the submitting entity shall provide a written
15 statement of the continuing need for confidentiality, which shall be
16 provided to the requester. Upon receipt of such notice, the department
17 of health shall continue to treat information designated under this
18 subsection (1)(d) as exempt from disclosure;

19 (iii) 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 (e) Records of the entity obtained in an action under RCW 18.71.300
23 through 18.71.340;

24 (f) Except for published statistical compilations and reports
25 relating to the infant mortality review studies that do not identify
26 individual cases and sources of information, any records or documents
27 obtained, prepared, or maintained by the local health department for
28 the purposes of an infant mortality review conducted by the department
29 of health under RCW 70.05.170; and

30 (g) Complaints filed under chapter 18.130 RCW after July 27, 1997,
31 to the extent provided in RCW 18.130.095(1).

32 (2) Chapter 70.02 RCW applies to public inspection and copying of
33 health care information of patients.

34 NEW SECTION. **Sec. 417.** Client records maintained by an agency
35 that is a domestic violence program as defined in RCW 70.123.020 or
36 70.123.075 or a rape crisis center as defined in RCW 70.125.030 are
37 exempt from disclosure under this chapter.

1 NEW SECTION. **Sec. 418.** The following information relating to
2 agriculture and livestock is exempt from disclosure under this chapter:

3 (1) Business-related information under RCW 15.86.110;

4 (2) Information provided under RCW 15.54.362;

5 (3) Production or sales records required to determine assessment
6 levels and actual assessment payments to commodity boards and
7 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
8 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the
9 department of agriculture to administer these chapters or the
10 department's programs;

11 (4) Consignment information contained on phytosanitary certificates
12 issued by the department of agriculture under chapters 15.13, 15.49,
13 and 15.17 RCW or federal phytosanitary certificates issued under
14 C.F.R. 353 through cooperative agreements with the animal and plant
15 health inspection service, United States department of agriculture, or
16 on applications for phytosanitary certification required by the
17 department of agriculture;

18 (5) Financial and commercial information and records supplied by
19 persons (a) to the department of agriculture for the purpose of
20 conducting a referendum for the potential establishment of a commodity
21 board or commission; or (b) to the department of agriculture or
22 commodity boards or commissions formed under chapter 15.24, 15.28,
23 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, or 16.67 RCW with respect to
24 domestic or export marketing activities or individual producer's
25 production information;

26 (6) Except under RCW 15.19.080, information obtained regarding the
27 purchases, sales, or production of an individual American ginseng
28 grower or dealer;

29 (7) Information that can be identified to a particular business and
30 that is collected under section 3(1), chapter 235, Laws of 2002; and

31 (8) Financial statements provided under RCW 16.65.030(1)(d).

32 NEW SECTION. **Sec. 419.** Names of individuals residing in emergency
33 or transitional housing that are furnished to the department of revenue
34 or a county assessor in order to substantiate a claim for property tax
35 exemption under RCW 84.36.043 are exempt from disclosure under this
36 chapter.

1 NEW SECTION. **Sec. 420.** The following information relating to
2 insurance and financial institutions is exempt from disclosure under
3 this chapter:

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

7 (2) Information obtained and exempted or withheld from public
8 inspection by the health care authority under RCW 41.05.026, whether
9 retained by the authority, transferred to another state purchased
10 health care program by the authority, or transferred by the authority
11 to a technical review committee created to facilitate the development,
12 acquisition, or implementation of state purchased health care under
13 chapter 41.05 RCW;

14 (3) The names and individual identification data of all viators
15 regulated by the insurance commissioner under chapter 48.102 RCW;

16 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

17 (5) Information provided under RCW 48.05.510 through 48.05.535,
18 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
19 through 48.46.625;

20 (6) Information gathered under chapter 19.85 RCW or RCW 34.05.328
21 that can be identified to a particular business;

22 (7) Examination reports and information obtained by the department
23 of financial institutions from banks under RCW 30.04.075, from savings
24 banks under RCW 32.04.220, from savings and loan associations under RCW
25 33.04.110, from credit unions under RCW 31.12.565, from check cashers
26 and sellers under RCW 31.45.030(3), and from securities brokers and
27 investment advisers under RCW 21.20.100, all of which is confidential
28 and privileged information;

29 (8) Information provided to the insurance commissioner under RCW
30 48.110.040(3);

31 (9) Documents, materials, or information obtained by the insurance
32 commissioner under RCW 48.02.065, all of which are confidential and
33 privileged; and

34 (10) Confidential proprietary and trade secret information provided
35 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
36 48.31C.070.

1 NEW SECTION. **Sec. 421.** Records maintained by the employment
2 security department and subject to chapter 50.13 RCW if provided to
3 another individual or organization for operational, research, or
4 evaluation purposes are exempt from disclosure under this chapter.

5 NEW SECTION. **Sec. 422.** The following information relating to
6 security is exempt from disclosure under this chapter:

7 (1) Those portions of records assembled, prepared, or maintained to
8 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 (a) 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 (b) Records not subject to public disclosure under federal law that
19 are shared by federal or international agencies, and information
20 prepared from national security briefings provided to state or local
21 government officials related to domestic preparedness for acts of
22 terrorism;

23 (2) Those portions of records containing specific and unique
24 vulnerability assessments or specific and unique emergency and escape
25 response plans at a city, county, or state adult or juvenile
26 correctional facility, the public disclosure of which would have a
27 substantial likelihood of threatening the security of a city, county,
28 or state adult or juvenile correctional facility or any individual's
29 safety;

30 (3) Information compiled by school districts or schools in the
31 development of their comprehensive safe school plans under RCW
32 28A.320.125, to the extent that they identify specific vulnerabilities
33 of school districts and each individual school;

34 (4) Information regarding the infrastructure and security of
35 computer and telecommunications networks, consisting of security
36 passwords, security access codes and programs, access codes for secure

1 software applications, security and service recovery plans, security
2 risk assessments, and security test results to the extent that they
3 identify specific system vulnerabilities; and

4 (5) The security section of transportation system safety and
5 security program plans required under RCW 35.21.228, 35A.21.300,
6 36.01.210, 36.57.120, 36.57A.170, and 81.112.180.

7 NEW SECTION. **Sec. 423.** The following information relating to fish
8 and wildlife is exempt from disclosure under this chapter:

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

16 (2) Sensitive wildlife data obtained by the department of fish and
17 wildlife, however, sensitive wildlife data may be released to
18 government agencies concerned with the management of fish and wildlife
19 resources. As used in this subsection, sensitive wildlife data
20 includes:

21 (a) 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 (b) Radio frequencies used in, or locational data generated by,
25 telemetry studies; or

26 (c) 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 (i) The species has a known commercial or black market value;

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

31 (iii) 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; and

34 (3) 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

1 department, and type of license, endorsement, or tag; however, the
2 department of fish and wildlife may disclose personally identifying
3 information to:

4 (a) Government agencies concerned with the management of fish and
5 wildlife resources;

6 (b) The department of social and health services, child support
7 division, and to the department of licensing in order to implement RCW
8 77.32.014 and 46.20.291; and

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

11 NEW SECTION. **Sec. 424.** (1) Discharge papers of a veteran of the
12 armed forces of the United States filed at the office of the county
13 auditor before July 1, 2002, that have not been commingled with other
14 recorded documents are exempt from disclosure under this chapter.
15 These records will be available only to the veteran, the veteran's next
16 of kin, a deceased veteran's properly appointed personal representative
17 or executor, a person holding that veteran's general power of attorney,
18 or to anyone else designated in writing by that veteran to receive the
19 records.

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

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

1 (4) For the purposes of this section, next of kin of deceased
2 veterans have the same rights to full access to the record. Next of
3 kin are the veteran's widow or widower who has not remarried, son,
4 daughter, father, mother, brother, and sister.

5 NEW SECTION. **Sec. 425.** Information in an application for
6 licensing or a small loan endorsement under chapter 31.45 RCW regarding
7 the personal residential address, telephone number of the applicant, or
8 financial statement is exempt from disclosure under this chapter.

9 NEW SECTION. **Sec. 426.** All records obtained and all reports
10 produced as required by state fireworks law, chapter 70.77 RCW, are
11 exempt from disclosure under this chapter.

12 NEW SECTION. **Sec. 427.** All records, documents, data, and other
13 materials obtained under the requirements of RCW 72.09.115 from an
14 existing correctional industries class I work program participant or an
15 applicant for a proposed new or expanded class I correctional
16 industries work program are exempt from public disclosure under this
17 chapter.

18 NEW SECTION. **Sec. 428.** Information relating to the following
19 programs and reports, which have no ongoing activity, is exempt from
20 disclosure under this chapter:

21 (1) Railroad company contracts filed prior to July 28, 1991, with
22 the utilities and transportation commission under RCW 81.34.070, except
23 that the summaries of the contracts are open to public inspection and
24 copying as otherwise provided by this chapter;

25 (2) Personal information in files maintained in a data base created
26 under RCW 43.07.360; and

27 (3) Data collected by the department of social and health services
28 for the reports required by section 8, chapter 231, Laws of 2003,
29 except as compiled in the aggregate and reported to the senate and
30 house of representatives.

31 NEW SECTION. **Sec. 429.** The following acts or parts of acts are
32 each repealed:

1 (1) RCW 42.17.312 (Medical records--Health care information) and
2 1991 c 335 s 902;

3 (2) RCW 42.17.313 (Application for license or small loan
4 endorsement under chapter 31.45 RCW--Certain information exempt) and
5 1995 c 18 s 8 & 1991 c 355 s 22;

6 (3) RCW 42.17.314 (Electrical utility records, request by law
7 enforcement agency) and 1987 c 403 s 6;

8 (4) RCW 42.17.315 (Certain records obtained by colleges,
9 universities, libraries, or archives exempt) and 1975 1st ex.s. c 294
10 s 22;

11 (5) RCW 42.17.316 (Certain records of impaired physician program
12 exempt) and 2001 c 64 s 3, 1994 sp.s. c 9 s 726, & 1987 c 416 s 7;

13 (6) RCW 42.17.317 (Information on commercial fertilizer
14 distribution exempt) and 1987 c 45 s 15;

15 (7) RCW 42.17.318 (Information on concealed pistol licenses exempt)
16 and 1988 c 219 s 2;

17 (8) RCW 42.17.319 (Certain records of department of community,
18 trade, and economic development exempt) and 2001 c 87 s 1, 1999 c 150
19 s 1, 1993 c 280 s 36, & 1989 c 312 s 7;

20 (9) RCW 42.17.31901 (Identity of child victims of sexual assault
21 exempt) and 1992 c 188 s 6;

22 (10) RCW 42.17.31902 (Infant mortality review) and 1992 c 179 s 2;

23 (11) RCW 42.17.31903 (Identification of viators regulated by the
24 insurance commissioner exempt) and 1995 c 161 s 15;

25 (12) RCW 42.17.31904 (Insurance antifraud plans exempt) and 1995 c
26 285 s 15;

27 (13) RCW 42.17.31905 (Insurance information on certain material
28 transactions exempt) and 1995 c 86 s 25;

29 (14) RCW 42.17.31906 (Fireworks records exempt) and 1995 c 61 s 30;

30 (15) RCW 42.17.31907 (Agricultural business and commodity board and
31 commission records exempt) and 2002 c 313 s 66, 2001 c 314 s 18, & 1996
32 c 80 s 3;

33 (16) RCW 42.17.31908 (Business information gathered under certain
34 regulatory activities exempt) and 1996 c 102 s 1;

35 (17) RCW 42.17.31909 (American ginseng growers or dealers--Certain
36 information exempt) and 1998 c 154 s 33 & 1996 c 188 s 6;

37 (18) RCW 42.17.31910 (Uniform Disciplinary Act complaints exempt)
38 and 1997 c 270 s 2;

1 (19) RCW 42.17.31911 (Examination reports and information from
2 financial institutions exempt) and 1997 c 258 s 1;
3 (20) RCW 42.17.31912 (Motor carrier information systems) and 1999
4 c 146 s 1;
5 (21) RCW 42.17.31913 (Marine employees salary surveys) and 1999 c
6 256 s 2;
7 (22) RCW 42.17.31914 (Rail fixed guideway system--Safety and
8 security program plan) and 1999 c 202 s 8;
9 (23) RCW 42.17.31915 (Service contract providers--Financial reports
10 exempt) and 1999 c 112 s 18;
11 (24) RCW 42.17.31916 (Insurance information) and 2001 c 57 s 2;
12 (25) RCW 42.17.31917 (Insurance information--Proprietary or trade
13 secret) and 2001 c 179 s 14;
14 (26) RCW 42.17.31918 (Agriculture records exempt--Apple merchants)
15 and 2002 c 235 s 4;
16 (27) RCW 42.17.31919 (Public livestock market information exempt)
17 and 2003 c 326 s 91;
18 (28) RCW 42.17.31920 (Department of social and health services
19 reports for section 8, chapter 231, Laws of 2003) and 2004 c 142 s 16;
20 and
21 (29) RCW 42.17.31921 (Correctional industries class I work program
22 information) and 2004 c 167 s 9.

23 **PART IV**
24 **MISCELLANEOUS PROVISIONS**

25 NEW SECTION. **Sec. 501.** Part headings used in this act are not any
26 part of the law.

27 NEW SECTION. **Sec. 502.** Sections 401 through 429 of this act take
28 effect July 1, 2006.

29 NEW SECTION. **Sec. 503.** Sections 1, 101, and 403 through 428 of
30 this act are each added to chapter 42.30 RCW.

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