

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1133

59th Legislature
2005 Regular Session

Passed by the House March 4, 2005
Yeas 96 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 15, 2005
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1133** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1133

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on State Government Operations & Accountability
(originally sponsored by Representatives Nixon, Haigh and Shabro)

READ FIRST TIME 02/15/05.

1 AN ACT Relating to creating the public records act by recodifying
2 and making technical changes to existing law; amending RCW 2.64.111,
3 9.41.097, 9.41.129, 10.29.030, 10.29.090, 10.97.080, 10.97.140,
4 10.98.200, 10.99.090, 13.40.570, 15.19.080, 15.26.295, 15.28.315,
5 15.44.185, 15.58.060, 15.65.203, 15.66.105, 15.86.110, 15.88.170,
6 16.67.180, 18.27.120, 18.32.040, 18.39.450, 18.44.031, 18.51.290,
7 18.64.420, 18.71.0195, 18.71.340, 18.106.320, 18.130.085, 18.130.095,
8 18.130.110, 18.130.175, 19.28.171, 19.34.240, 19.80.065, 19.230.190,
9 21.20.855, 21.30.170, 22.09.640, 26.12.170, 26.23.120, 27.53.070,
10 28A.320.160, 28A.410.095, 28B.85.020, 28C.10.050, 29A.04.225,
11 29A.60.070, 29A.60.140, 30.04.075, 30.04.230, 30.04.410, 31.12.565,
12 31.45.030, 31.45.077, 31.45.090, 32.04.220, 32.32.228, 32.32.275,
13 33.04.110, 34.05.325, 35.02.130, 35.21.228, 35.21.759, 35.102.040,
14 35A.21.300, 36.01.210, 36.28A.060, 36.57.120, 36.57A.170, 36.70B.220,
15 36.70C.120, 36.102.200, 39.10.100, 40.07.040, 41.05.026, 41.06.160,
16 41.06.167, 41.06.450, 41.06.455, 42.17.245, 42.17.251, 42.17.260,
17 42.17.270, 42.17.305, 42.17.311, 42.17.340, 42.17.341, 42.17.348,
18 42.48.030, 42.52.050, 42.52.810, 43.06A.050, 43.21L.120, 43.22.434,
19 43.33A.025, 43.43.856, 43.52.570, 43.52.612, 43.70.050, 43.70.510,
20 44.05.080, 46.12.380, 46.12.390, 46.20.041, 46.20.118, 47.64.220,
21 48.02.065, 48.20.530, 48.21.330, 48.30A.060, 48.32A.185, 48.44.470,

1 48.46.540, 48.62.101, 48.94.010, 48.104.050, 50.13.015, 50.13.030,
2 50.13.040, 50.13.060, 50.13.080, 50.38.060, 51.36.120, 52.14.100,
3 69.41.044, 69.41.280, 69.45.090, 70.02.090, 70.38.095, 70.41.150,
4 70.44.315, 70.45.030, 70.47.150, 70.77.455, 70.95C.220, 70.102.020,
5 70.120.100, 70.148.060, 70.149.090, 70.168.070, 70.168.090, 70.190.060,
6 72.09.116, 72.09.225, 73.04.030, 74.09A.020, 74.13.500, 74.13.515,
7 74.13.525, 74.34.063, 74.39A.200, 74.46.820, 76.09.060, 80.04.095,
8 81.104.115, 81.112.180, 82.32.410, 84.08.210, 84.40.020, 90.14.068, and
9 90.80.135; reenacting and amending RCW 66.28.180, 71.05.390, 82.32.330,
10 and 42.17.310; adding a new chapter to Title 42 RCW; creating new
11 sections; recodifying RCW 42.17.250, 42.17.251, 42.17.255, 42.17.258,
12 42.17.260, 42.17.270, 42.17.280, 42.17.290, 42.17.295, 42.17.300,
13 42.17.305, 42.17.310, 42.17.311, 42.17.320, 42.17.325, 42.17.330,
14 42.17.340, 42.17.341, and 42.17.348; repealing RCW 42.17.312,
15 42.17.313, 42.17.314, 42.17.315, 42.17.316, 42.17.317, 42.17.318,
16 42.17.319, 42.17.31901, 42.17.31902, 42.17.31903, 42.17.31904,
17 42.17.31905, 42.17.31906, 42.17.31907, 42.17.31908, 42.17.31909,
18 42.17.31910, 42.17.31911, 42.17.31912, 42.17.31913, 42.17.31914,
19 42.17.31915, 42.17.31916, 42.17.31917, 42.17.31918, 42.17.31919,
20 42.17.31920, and 42.17.31921; and providing an effective date.

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

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

27 **PART I**
28 **PUBLIC RECORDS ACT**

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

31 NEW SECTION. **Sec. 102.** This chapter may be known and cited as the
32 public records act.

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

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

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

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

18 The department of licensing may keep copies or records of
19 applications for concealed pistol licenses provided for in RCW
20 9.41.070, copies or records of applications for alien firearm licenses,
21 copies or records of applications to purchase pistols provided for in
22 RCW 9.41.090, and copies or records of pistol transfers provided for in
23 RCW 9.41.110. The copies and records shall not be disclosed except as
24 provided in (~~RCW 42.17.318~~) section 404(4) of this act.

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

27 (1) The organized crime advisory board shall have the authority, by
28 a three-fourths vote at a regularly constituted meeting, to petition
29 the Washington state supreme court for an order appointing a special
30 inquiry judge as prescribed by this section. Such vote may be on its
31 own motion or pursuant to a request from the prosecuting attorney of
32 any county. In the event of such request from a prosecuting attorney
33 the board shall vote on the question promptly. A petition filed under
34 this section shall state the general crimes or wrongs to be inquired
35 into and shall state the reasons why said crimes or wrongs are such
36 that a statewide special inquiry judge should be authorized to

1 investigate. The supreme court may order the appointment of a
2 statewide special inquiry judge, in accordance with the petition, for
3 a term of six calendar months. Upon petition by the special
4 prosecutor, and with the approval of the majority of the members of the
5 organized crime advisory board, the supreme court, by order, may extend
6 the term of the statewide special inquiry judge for three months. The
7 term of the statewide special inquiry judge may subsequently be
8 extended in the same manner for additional three-month periods.

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

14 (3) All of the information and data collected and processed by the
15 organized crime advisory board and the petition filed with the supreme
16 court shall be confidential and not subject to examination or
17 publication pursuant to chapter (~~42.17 RCW (Initiative Measure No.~~
18 ~~276), as now existing or hereafter amended~~) 42.-- RCW (the new chapter
19 created in section 103 of this act), except as provided by rules of the
20 supreme court of Washington in the case of the petition.

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

23 Within ten days of his or her appointment, a special prosecutor
24 selected under this chapter shall submit to the organized crime
25 advisory board an operating budget to fund the activities of his or her
26 office. The budget may include, but shall not be limited to, funds for
27 the hiring of assistant special prosecutors, investigators, and
28 clerical staff. Upon the approval of the budget by a majority of the
29 members of the board, the costs and expenses of the prosecutor's
30 operating budget shall be paid for by the state out of the organized
31 crime prosecution revolving fund. Further operating budgets shall be
32 proposed, approved, and funded pursuant to this section if the term of
33 a statewide special inquiry judge is extended pursuant to RCW
34 10.29.030.

35 Vouchers and other budget and accounting records of a special
36 inquiry judge proceeding including such records of the special

1 prosecutor shall be subject to audit by the state auditor but shall not
2 be public records within the meaning of chapter ((42.17 RCW)) 42.-- RCW
3 (the new chapter created in section 103 of this act).

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

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

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

23 No person shall be allowed to retain or mechanically reproduce any
24 nonconviction data except for the purpose of challenge or correction
25 when the person who is the subject of the record asserts the belief in
26 writing that the information regarding such person is inaccurate or
27 incomplete. The provisions of chapter ((42.17 RCW)) 42.-- RCW (the new
28 chapter created in section 103 of this act) shall not be construed to
29 require or authorize copying of nonconviction data for any other
30 purpose.

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

1 and persons to whom inaccurate or incomplete information was previously
2 disseminated. Such rules may establish time limitations of not less
3 than ninety days upon the requirement for disseminating corrected
4 information.

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

7 Nothing in RCW 40.14.060(~~(7)~~) or 40.14.070(~~(7)~~) or (~~(42.17.310)~~)
8 chapter 42.-- RCW (the new chapter created in section 103 of this act)
9 precludes dissemination of criminal history record information,
10 including nonconviction data, for the purposes of this chapter.

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

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

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

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

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

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

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

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

31 (f) Maintain security and privacy rights respecting criminal
32 justice information.

33 (3) Statewide coordination of criminal justice information will
34 improve:

35 (a) The safety of the public and the safety of law enforcement

1 officers and other public servants, by making more complete, accurate,
2 and timely information concerning offenders available to all criminal
3 justice agencies and courts;

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

6 (c) Access to complete, accurate, and timely information by the
7 public, to the extent permitted pursuant to chapters 10.97 and (~~42.17~~
8 RCW) 42.-- RCW (the new chapter created in section 103 of this act).

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

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

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

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

33 (1) By December 1, 2004, the association shall develop a written
34 model policy on domestic violence committed or allegedly committed by
35 sworn employees of agencies. In developing the policy, the association
36 shall convene a work group consisting of representatives from the
37 following entities and professions:

- 1 (a) Statewide organizations representing state and local
2 enforcement officers;
- 3 (b) A statewide organization providing training and education for
4 agencies having the primary responsibility of serving victims of
5 domestic violence with emergency shelter and other services; and
- 6 (c) Any other organization or profession the association determines
7 to be appropriate.
- 8 (2) Members of the work group shall serve without compensation.
- 9 (3) The model policy shall provide due process for employees and,
10 at a minimum, meet the following standards:
- 11 (a) Provide prehire screening procedures reasonably calculated to
12 disclose whether an applicant for a sworn employee position:
- 13 (i) Has committed or, based on credible sources, has been accused
14 of committing an act of domestic violence;
- 15 (ii) Is currently being investigated for an allegation of child
16 abuse or neglect or has previously been investigated for founded
17 allegations of child abuse or neglect; or
- 18 (iii) Is currently or has previously been subject to any order
19 under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any
20 equivalent order issued by another state or tribal court;
- 21 (b) Provide for the mandatory, immediate response to acts or
22 allegations of domestic violence committed or allegedly committed by a
23 sworn employee of an agency;
- 24 (c) Provide to a sworn employee, upon the request of the sworn
25 employee or when the sworn employee has been alleged to have committed
26 an act of domestic violence, information on programs under RCW
27 26.50.150;
- 28 (d) Provide for the mandatory, immediate reporting by employees
29 when an employee becomes aware of an allegation of domestic violence
30 committed or allegedly committed by a sworn employee of the agency
31 employing the sworn employee;
- 32 (e) Provide procedures to address reporting by an employee who is
33 the victim of domestic violence committed or allegedly committed by a
34 sworn employee of an agency;
- 35 (f) Provide for the mandatory, immediate self-reporting by a sworn
36 employee to his or her employing agency when an agency in any
37 jurisdiction has responded to a domestic violence call in which the

1 sworn employee committed or allegedly committed an act of domestic
2 violence;

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

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

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

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

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

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

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

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

37 (l) Provide procedures for the timely response, consistent with
38 chapters ((42.17)) 42.-- (the new chapter created in section 103 of

1 this act) and 10.97 RCW, to an alleged victim's inquiries into the
2 status of the administrative investigation and the procedures the
3 agency will follow in an investigation of domestic violence committed
4 or allegedly committed by a sworn employee;

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

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

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

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

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

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

35 (b) The association shall maintain a copy of each agency's policy
36 and shall provide to the governor and legislature not later than
37 January 1, 2006, a list of those agencies that have not developed and

1 submitted policies and those agencies that have not stated their
2 compliance with the training required under this section.

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

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

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

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

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

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

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

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

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

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

30 (5) The secretary, when considering the renewal of a contract with
31 a contractor who has taken action under subsection (3) or (4) of this
32 section, shall require the contractor to demonstrate that there has
33 been significant progress made in reducing the likelihood that any of
34 its employees will have sexual intercourse or sexual contact with an
35 offender. The secretary shall examine whether the contractor has taken
36 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 RCW~~) 42.-- RCW (the
19 new chapter created in section 103 of this act), or elsewhere, nothing
20 in this section shall impose any liability upon a public official,
21 public employee, or public agency for failing to release information
22 authorized under this section. Nothing in this section implies that
23 information regarding persons designated in subsection (2) of this
24 section is confidential except as may otherwise 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-RCW)) 42.-- RCW (the
10 new chapter created in section 103 of this act).

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

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

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

23 (3) This chapter does not prohibit:

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

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

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

32 (1) Under ((RCW-42.17.31907)) section 418 of this act, certain
33 agricultural business records, commission records, and department of
34 agriculture records relating to the commission and producers of
35 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 RCW~~) 42.-- RCW (the new chapter created in section 103 of this
31 act).

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

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

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

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

13 (3) This chapter does not prohibit:

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

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

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

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

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

32 (3) This chapter does not prohibit:

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

36 (b) The publication by the director or the commission of the name

1 of any person violating this chapter and a statement of the manner of
2 the violation by that person.

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

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

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

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

17 The commission shall require that every applicant for a license to
18 practice dentistry shall:

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

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

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

1 under ((~~RCW 42.17.250 through 42.17.340~~)) chapter 42.-- RCW (the new
2 chapter created in section 103 of this act).

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

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

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

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

18 (b) Appropriate organizations, public or private, that serve the
19 professions; and

20 (c) Counterpart licensing boards in other states or associations of
21 state licensing boards.

22 (3) This section does not require the reporting of information that
23 is exempt from public disclosure under chapter ((~~42.17-RCW~~)) 42.-- RCW
24 (the new chapter created in section 103 of this act).

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

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

33 (1) The applicant's form of business organization and place of
34 organization;

35 (2) If the applicant is a corporation or limited liability company,
36 the address of its physical location, a list of officers, controlling

1 persons, and directors of such corporation or company and their
2 residential addresses, telephone numbers, and other identifying
3 information as the director may determine by rule. If the applicant is
4 a sole proprietorship or partnership, the address of its business
5 location, a list of owners, partners, or controlling persons and their
6 residential addresses, telephone numbers, and other identifying
7 information as the director may determine by rule. Any information in
8 the application regarding the personal residential address or telephone
9 number of any officer, director, partner, owner, controlling person, or
10 employee is exempt from the public records disclosure requirements of
11 chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103
12 of this act);

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

16 (4) The qualifications and business history of the applicant and
17 all of its officers, directors, owners, partners, and controlling
18 persons;

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

22 (6) Whether any of the officers, directors, owners, partners, or
23 controlling persons have been convicted of any crime within the
24 preceding ten years which relates directly to the business or duties of
25 escrow agents, or have suffered a judgment within the preceding five
26 years in any civil action involving fraud, misrepresentation, any
27 unfair or deceptive act or practice, or conversion;

28 (7) The identity of the licensed escrow officer designated by the
29 escrow agent as the designated escrow officer responsible for
30 supervising the agent's escrow activity;

31 (8) Evidence of compliance with the bonding and insurance
32 requirements of RCW 18.44.201; and

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

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

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

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

11 All records, reports, and information obtained by the department
12 from or on behalf of an entity licensed under chapter 48.20, 48.21,
13 48.44, or 48.46 RCW shall be confidential and exempt from inspection
14 and copying under chapter (~~(42.17 RCW)~~) 42.-- RCW (the new chapter
15 created in section 103 of this act). Nothing in this section restricts
16 the investigation or the proceedings of the board or the department so
17 long as the board and the department comply with the provisions of
18 chapter (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103
19 of this act). Nothing in this section or in chapter (~~(42.17 RCW)~~)
20 42.-- RCW (the new chapter created in section 103 of this act) shall
21 restrict the board or the department from complying with any mandatory
22 reporting requirements that exist or may exist under federal law, nor
23 shall the board or the department be restricted from providing to any
24 person the name of any nonresident pharmacy that is or has been
25 licensed or disciplined under RCW 18.64.350 through 18.64.400.

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

28 (1) The contents of any report filed under RCW 18.130.070 shall be
29 confidential and exempt from public disclosure pursuant to chapter
30 (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103 of this
31 act), except that it may be reviewed (a) by the licensee involved or
32 his or her counsel or authorized representative who may submit any
33 additional exculpatory or explanatory statements or other information,
34 which statements or other information shall be included in the file, or
35 (b) by a representative of the commission, or investigator thereof, who
36 has been assigned to review the activities of a licensed physician.

1 Upon a determination that a report is without merit, the
2 commission's records may be purged of information relating to the
3 report.

4 (2) Every individual, medical association, medical society,
5 hospital, medical service bureau, health insurance carrier or agent,
6 professional liability insurance carrier, professional standards review
7 organization, agency of the federal, state, or local government, or the
8 entity established by RCW 18.71.300 and its officers, agents, and
9 employees are immune from civil liability, whether direct or
10 derivative, for providing information to the commission under RCW
11 18.130.070, or for which an individual health care provider has
12 immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260.

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

15 All entity records are not subject to disclosure pursuant to
16 chapter ((~~42.17~~ RCW)) 42.-- RCW (the new chapter created in section 103
17 of this act).

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

20 (1) Contractors shall accurately verify and attest to the trainee
21 hours worked by plumbing trainees on behalf of the contractor and that
22 all training hours were under the supervision of a certified plumber
23 and within the proper ratio, and shall provide the supervising
24 plumbers' names and certificate numbers. However, contractors are not
25 required to identify which hours a trainee works with a specific
26 certified plumber.

27 (2) The department may audit the records of a contractor that has
28 verified the hours of experience submitted by a plumbing trainee to the
29 department under RCW 18.106.030 in the following circumstances:
30 Excessive hours were reported; hours were reported outside the normal
31 course of the contractor's business; or for other similar circumstances
32 in which the department demonstrates a likelihood of excessive or
33 improper hours being reported. The department shall limit the audit to
34 records necessary to verify hours. The department shall adopt rules
35 implementing audit procedures. Information obtained from a contractor

1 under the provisions of this section is confidential and is not open to
2 public inspection under chapter ((42.17 RCW)) 42.-- RCW (the new
3 chapter created in section 103 of this act).

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

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

7 If the department communicates in writing to a complainant, or his
8 or her representative, regarding his or her complaint, such
9 communication shall not include the address or telephone number of the
10 health care provider against whom he or she has complained. The
11 department shall inform all applicants for a health care provider
12 license of the provisions of this section and ((RCW 42.17.310)) chapter
13 42.-- RCW (the new chapter created in section 103 of this act)
14 regarding the release of address and telephone information.

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

17 (1)(a) The secretary, in consultation with the disciplining
18 authorities, shall develop uniform procedural rules to respond to
19 public inquiries concerning complaints and their disposition, active
20 investigations, statement of charges, findings of fact, and final
21 orders involving a licensee, applicant, or unlicensed person. The
22 uniform procedural rules adopted under this subsection apply to all
23 adjudicative proceedings conducted under this chapter and shall include
24 provisions for establishing time periods for initial assessment,
25 investigation, charging, discovery, settlement, and adjudication of
26 complaints, and shall include enforcement provisions for violations of
27 the specific time periods by the department, the disciplining
28 authority, and the respondent. A licensee must be notified upon
29 receipt of a complaint, except when the notification would impede an
30 effective investigation. At the earliest point of time the licensee
31 must be allowed to submit a written statement about that complaint,
32 which statement must be included in the file. Complaints filed after
33 July 27, 1997, are exempt from public disclosure under chapter ((42.17
34 RCW)) 42.-- RCW (the new chapter created in section 103 of this act)
35 until the complaint has been initially assessed and determined to
36 warrant an investigation by the disciplining authority. Complaints

1 determined not to warrant an investigation by the disciplining
2 authority are no longer considered complaints, but must remain in the
3 records and tracking system of the department. Information about
4 complaints that did not warrant an investigation, including the
5 existence of the complaint, may be released only upon receipt of a
6 written public disclosure request or pursuant to an interagency
7 agreement as provided in (b) of this subsection. Complaints determined
8 to warrant no cause for action after investigation are subject to
9 public disclosure, must include an explanation of the determination to
10 close the complaint, and must remain in the records and tracking system
11 of the department.

12 (b) The secretary, on behalf of the disciplining authorities, shall
13 enter into interagency agreements for the exchange of records, which
14 may include complaints filed but not yet assessed, with other state
15 agencies if access to the records will assist those agencies in meeting
16 their federal or state statutory responsibilities. Records obtained by
17 state agencies under the interagency agreements are subject to the
18 limitations on disclosure contained in (a) of this subsection.

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

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

27 (b) From a witness or potential witness in an investigation under
28 this chapter, the investigator shall inform the person, in writing,
29 that the statement may be released to the licensee, applicant, or
30 unlicensed person under investigation if a statement of charges is
31 issued.

32 (3) Only upon the authorization of a disciplining authority
33 identified in RCW 18.130.040(2)(b), the secretary, or his or her
34 designee, may serve as the presiding officer for any disciplinary
35 proceedings of the disciplining authority authorized under this
36 chapter. Except as provided in RCW 18.130.050(8), the presiding
37 officer shall not vote on or make any final decision. All functions

1 performed by the presiding officer shall be subject to chapter 34.05
2 RCW. The secretary, in consultation with the disciplining authorities,
3 shall adopt procedures for implementing this subsection.

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

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

13 (1) In the event of a finding of unprofessional conduct, the
14 disciplining authority shall prepare and serve findings of fact and an
15 order as provided in chapter 34.05 RCW, the Administrative Procedure
16 Act. If the license holder or applicant is found to have not committed
17 unprofessional conduct, the disciplining authority shall forthwith
18 prepare and serve findings of fact and an order of dismissal of the
19 charges, including public exoneration of the licensee or applicant.
20 The findings of fact and order shall be retained by the disciplining
21 authority as a permanent record.

22 (2) The disciplining authority shall report the issuance of
23 statements of charges and final orders in cases processed by the
24 disciplining authority to:

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

28 (b) Appropriate organizations, public or private, which serve the
29 professions;

30 (c) The public. Notification of the public shall include press
31 releases to appropriate local news media and the major news wire
32 services; and

33 (d) Counterpart licensing boards in other states, or associations
34 of state licensing boards.

35 (3) This section shall not be construed to require the reporting of
36 any information which is exempt from public disclosure under chapter

1 ((~~42.17~~ RCW)) 42.-- RCW (the new chapter created in section 103 of this
2 act).

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

5 (1) In lieu of disciplinary action under RCW 18.130.160 and if the
6 disciplining authority determines that the unprofessional conduct may
7 be the result of substance abuse, the disciplining authority may refer
8 the license holder to a voluntary substance abuse monitoring program
9 approved by the disciplining authority.

10 The cost of the treatment shall be the responsibility of the
11 license holder, but the responsibility does not preclude payment by an
12 employer, existing insurance coverage, or other sources. Primary
13 alcoholism or other drug addiction treatment shall be provided by
14 approved treatment programs under RCW 70.96A.020 or by any other
15 provider approved by the entity or the commission. However, nothing
16 shall prohibit the disciplining authority from approving additional
17 services and programs as an adjunct to primary alcoholism or other drug
18 addiction treatment. The disciplining authority may also approve the
19 use of out-of-state programs. Referral of the license holder to the
20 program shall be done only with the consent of the license holder.
21 Referral to the program may also include probationary conditions for a
22 designated period of time. If the license holder does not consent to
23 be referred to the program or does not successfully complete the
24 program, the disciplining authority may take appropriate action under
25 RCW 18.130.160. The secretary shall adopt uniform rules for the
26 evaluation by the disciplinary authority of a relapse or program
27 violation on the part of a license holder in the substance abuse
28 monitoring program. The evaluation shall encourage program
29 participation with additional conditions, in lieu of disciplinary
30 action, when the disciplinary authority determines that the license
31 holder is able to continue to practice with reasonable skill and
32 safety.

33 (2) In addition to approving substance abuse monitoring programs
34 that may receive referrals from the disciplining authority, the
35 disciplining authority may establish by rule requirements for
36 participation of license holders who are not being investigated or
37 monitored by the disciplining authority for substance abuse. License

1 holders voluntarily participating in the approved programs without
2 being referred by the disciplining authority shall not be subject to
3 disciplinary action under RCW 18.130.160 for their substance abuse, and
4 shall not have their participation made known to the disciplining
5 authority, if they meet the requirements of this section and the
6 program in which they are participating.

7 (3) The license holder shall sign a waiver allowing the program to
8 release information to the disciplining authority if the licensee does
9 not comply with the requirements of this section or is unable to
10 practice with reasonable skill or safety. The substance abuse program
11 shall report to the disciplining authority any license holder who fails
12 to comply with the requirements of this section or the program or who,
13 in the opinion of the program, is unable to practice with reasonable
14 skill or safety. License holders shall report to the disciplining
15 authority if they fail to comply with this section or do not complete
16 the program's requirements. License holders may, upon the agreement of
17 the program and disciplining authority, reenter the program if they
18 have previously failed to comply with this section.

19 (4) The treatment and pretreatment records of license holders
20 referred to or voluntarily participating in approved programs shall be
21 confidential, shall be exempt from (~~RCW 42.17.250 through 42.17.450~~)
22 chapter 42.-- RCW (the new chapter created in section 103 of this act),
23 and shall not be subject to discovery by subpoena or admissible as
24 evidence except for monitoring records reported to the disciplining
25 authority for cause as defined in subsection (3) of this section.
26 Monitoring records relating to license holders referred to the program
27 by the disciplining authority or relating to license holders reported
28 to the disciplining authority by the program for cause, shall be
29 released to the disciplining authority at the request of the
30 disciplining authority. Records held by the disciplining authority
31 under this section shall be exempt from (~~RCW 42.17.250 through~~
32 ~~42.17.450~~) chapter 42.-- RCW (the new chapter created in section 103
33 of this act) and shall not be subject to discovery by subpoena except
34 by the license holder.

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

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

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

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

- 11 (i) An approved monitoring treatment program;
- 12 (ii) The professional association operating the program;
- 13 (iii) Members, employees, or agents of the program or association;
- 14 (iv) Persons reporting a license holder as being possibly impaired
15 or providing information about the license holder's impairment; and
- 16 (v) Professionals supervising or monitoring the course of the
17 impaired license holder's treatment or rehabilitation.

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

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

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

26 The department may audit the records of an electrical contractor
27 that has verified the hours of experience submitted by an electrical
28 trainee to the department under RCW 19.28.161(2) in the following
29 circumstances: Excessive hours were reported; hours reported outside
30 the normal course of the contractor's business; the type of hours
31 reported do not reasonably match the type of permits purchased; or for
32 other similar circumstances in which the department demonstrates a
33 likelihood of excessive hours being reported. The department shall
34 limit the audit to records necessary to verify hours. The department
35 shall adopt rules implementing audit procedures. Information obtained
36 from an electrical contractor under the provisions of this section is

1 confidential and is not open to public inspection under chapter ((42.17
2 RCW)) 42.-- RCW (the new chapter created in section 103 of this act).

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

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

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

13 (3) A private key in the possession of a state agency or local
14 agency, as those terms are defined by RCW 42.17.020, is exempt from
15 public inspection and copying under chapter ((42.17 RCW)) 42.-- RCW
16 (the new chapter created in section 103 of this act).

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

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

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

23 (1) Except as otherwise provided in subsection (2) of this section,
24 all information or reports obtained by the director from an applicant,
25 licensee, or authorized delegate and all information contained in, or
26 related to, examination, investigation, operating, or condition reports
27 prepared by, on behalf of, or for the use of the director, or financial
28 statements, balance sheets, or authorized delegate information, are
29 confidential and are not subject to disclosure under chapter ((42.17
30 RCW)) 42.-- RCW (the new chapter created in section 103 of this act).

31 (2) The director may disclose information not otherwise subject to
32 disclosure under subsection (1) of this section to representatives of
33 state or federal agencies who agree in writing to maintain the
34 confidentiality of the information; or if the director finds that the

1 release is reasonably necessary for the protection of the public and in
2 the interests of justice.

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

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

8 (1) Examination reports and information obtained by the director or
9 the director's representatives in conducting examinations pursuant to
10 RCW 21.20.700 shall not be subject to public disclosure under chapter
11 (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103 of this
12 act).

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

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

22 (1) All information collected, assembled, or maintained by the
23 director under this chapter is public information and is available for
24 the examination of the public as provided by chapter (~~(42.17 RCW)~~)
25 42.-- RCW (the new chapter created in section 103 of this act) except
26 the following:

27 (a) Information obtained in private investigations pursuant to RCW
28 21.30.100 or 21.30.110;

29 (b) Information exempt from public disclosure under chapter (~~(42.17~~
30 ~~RCW)~~) 42.-- RCW (the new chapter created in section 103 of this act);
31 and

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

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

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

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

7 Notwithstanding the provisions of chapter (~~42.17 RCW~~) 42.-- RCW
8 (the new chapter created in section 103 of this act), the department
9 shall publish annually and distribute to interested parties, a list of
10 licensed warehouses showing the location, county, capacity, and bond
11 coverage for each company.

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

14 To facilitate and promote the purposes of this chapter, family
15 court judges and court commissioners may order or recommend family
16 court services, parenting seminars, drug and alcohol abuse evaluations
17 and monitoring of the parties through public or private treatment
18 services, other treatment services, the aid of physicians,
19 psychiatrists, other specialists, or other services or may recommend
20 the aid of the pastor or director of any religious denomination to
21 which the parties may belong.

22 If the court has reasonable cause to believe that a child of the
23 parties has suffered abuse or neglect it may file a report with the
24 proper law enforcement agency or the department of social and health
25 services as provided in RCW 26.44.040. Upon receipt of such a report
26 the law enforcement agency or the department of social and health
27 services will conduct an investigation into the cause and extent of the
28 abuse or neglect. The findings of the investigation may be made
29 available to the court if ordered by the court as provided in RCW
30 42.17.310(~~(+3)~~)(2) (as recodified by this act). The findings shall be
31 restricted to the issue of abuse and neglect and shall not be
32 considered custody investigations.

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

35 (1) Any information or records concerning individuals who owe a

1 support obligation or for whom support enforcement services are being
2 provided which are obtained or maintained by the Washington state
3 support registry, the division of child support, or under chapter 74.20
4 RCW shall be private and confidential and shall only be subject to
5 public disclosure as provided in subsection (2) of this section.

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

8 (a) That specify what information is confidential;

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

11 (c) Limiting the purposes for which the information may be
12 disclosed;

13 (d) Establishing procedures to obtain the information or records;
14 or

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

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

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

22 (b) To the person the subject of the records or information, unless
23 the information is exempt from disclosure under ((RCW 42.17.310))
24 chapter 42.-- RCW (the new chapter created in section 103 of this act);

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

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

34 (e) To private persons, federally recognized tribes, or
35 organizations if the disclosure is necessary to permit private
36 contracting parties to assist in the management and operation of the
37 department;

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

4 (g) Disclosure of information or records when necessary to the
5 efficient administration of the support enforcement program or to the
6 performance of functions and responsibilities of the support registry
7 and the division of child support as set forth in state and federal
8 statutes; or

9 (h) Disclosure of the information or records when authorized under
10 RCW 74.04.060.

11 (4) Prior to disclosing the whereabouts of a physical custodian,
12 custodial parent or a child to the other parent or party, a notice
13 shall be mailed, if appropriate under the circumstances, to the parent
14 or physical custodian whose whereabouts are to be disclosed, at that
15 person's last known address. The notice shall advise the parent or
16 physical custodian that a request for disclosure has been made and will
17 be complied with unless the department:

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

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

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

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

36 (6) The notice and hearing process in subsections (4) and (5) of
37 this section do not apply to protect the whereabouts of a noncustodial

1 parent, unless that parent has requested notice before whereabouts
2 information is released. A noncustodial parent may request such notice
3 by submitting a written request to the division of child support.

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

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

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

18 It is the declared intention of the legislature that field
19 investigations on privately owned lands should be discouraged except in
20 accordance with both the provisions and spirit of this chapter and
21 persons having knowledge of the location of archaeological sites or
22 resources are encouraged to communicate such information to the
23 Washington archaeological research center. Such information shall not
24 constitute a public record which requires disclosure pursuant to the
25 exception authorized in (~~RCW 42.17.310, as now or hereafter amended,~~)
26 chapter 42.-- RCW (the new chapter created in section 103 of this act)
27 to avoid site depredation.

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

30 School districts must, at the first opportunity but in all cases
31 within forty-eight hours of receiving a report alleging sexual
32 misconduct by a school employee, notify the parents of a student
33 alleged to be the victim, target, or recipient of the misconduct.
34 School districts shall provide parents with information regarding their
35 rights under the (~~Washington public disclosure~~) public records act,
36 chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter created in section 103

1 of this act), to request the public records regarding school employee
2 discipline. This information shall be provided to all parents on an
3 annual basis.

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

6 (1) The superintendent of public instruction may initiate and
7 conduct investigations as may be reasonably necessary to establish the
8 existence of any alleged violations of or noncompliance with this
9 chapter or any rules adopted under it. For the purpose of any
10 investigation or proceeding under this chapter, the superintendent or
11 any officer designated by the superintendent may administer oaths and
12 affirmations, subpoena witnesses and compel their attendance, take
13 evidence, and require the production of any books, papers,
14 correspondence, memoranda, agreements, or other documents or records
15 that the superintendent deems relevant and material to the inquiry.

16 (2) Investigations conducted by the superintendent of public
17 instruction concerning alleged sexual misconduct towards a child shall
18 be completed within one year of the initiation of the investigation or
19 within thirty days of the completion of all proceedings, including
20 court proceedings, resulting from an investigation conducted by law
21 enforcement or child protective services if there is such an
22 investigation. The superintendent of public instruction may take, for
23 reasonable cause, additional time for completion of the investigation
24 after informing the victim, the individual being investigated, and the
25 school district that employs the individual being investigated of the
26 reasons additional time is needed and the amount of additional time
27 needed. Written notification must be provided to each of the parties
28 who must be informed. The sole remedy for a failure to complete an
29 investigation of sexual misconduct within the time allowed by this
30 subsection is a civil penalty of fifty dollars per day for each day
31 beyond the allowed time.

32 (3) If any person fails to obey a subpoena or obeys a subpoena but
33 refuses to give evidence, any court of competent jurisdiction, upon
34 application by the superintendent, may issue to that person an order
35 requiring him or her to appear before the court and to show cause why
36 he or she should not be compelled to obey the subpoena, and give

1 evidence material to the matter under investigation. The failure to
2 obey an order of the court may be punishable as contempt.

3 (4) Once an investigation has been initiated by the superintendent
4 of public instruction, the investigation shall be completed regardless
5 of whether the individual being investigated has resigned his or her
6 position or allowed his or her teaching certificate to lapse. The
7 superintendent shall make a written finding regarding each
8 investigation indicating the actions taken, including a statement of
9 the reasons why a complaint was dismissed or did not warrant further
10 investigation or action by the superintendent, and shall provide such
11 notice to each person who filed the complaint. Written findings under
12 this section are subject to public disclosure under chapter ((42.17
13 RCW)) 42.-- RCW (the new chapter created in section 103 of this act).

14 (5) An investigation into sexual or physical abuse of a student by
15 a school employee shall only be initiated by the superintendent of
16 public instruction after the superintendent of public instruction
17 verifies that the incident has been reported to the proper law
18 enforcement agency or the department of social and health services as
19 required under RCW 26.44.030.

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

22 (1) The board:

23 (a) Shall adopt by rule minimum standards for degree-granting
24 institutions concerning granting of degrees, quality of education,
25 unfair business practices, financial stability, and other necessary
26 measures to protect citizens of this state against substandard,
27 fraudulent, or deceptive practices. The rules may require that an
28 institution be accredited or be making progress toward accreditation by
29 an accrediting agency recognized by the United States department of
30 education. The board shall adopt the rules in accordance with chapter
31 34.05 RCW;

32 (b) May investigate any entity the board reasonably believes to be
33 subject to the jurisdiction of this chapter. In connection with the
34 investigation, the board may administer oaths and affirmations, issue
35 subpoenas and compel attendance, take evidence, and require the
36 production of any books, papers, correspondence, memorandums, or other
37 records which the board deems relevant or material to the

1 investigation. The board, including its staff and any other authorized
2 persons, may conduct site inspections, the cost of which shall be borne
3 by the institution, and examine records of all institutions subject to
4 this chapter;

5 (c) Shall develop an interagency agreement with the work force
6 training and education coordinating board to regulate degree-granting
7 private vocational schools with respect to degree and nondegree
8 programs; and

9 (d) Shall develop and disseminate information to the public about
10 entities that sell or award degrees without requiring appropriate
11 academic achievement at the postsecondary level, including but not
12 limited to, a description of the substandard and potentially fraudulent
13 practices of these entities, and advice about how the public can
14 recognize and avoid the entities. To the extent feasible, the
15 information shall include links to additional resources that may assist
16 the public in identifying specific institutions offering substandard or
17 fraudulent degree programs.

18 (2) Financial disclosures provided to the board by degree-granting
19 private vocational schools are not subject to public disclosure under
20 chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103
21 of this act).

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

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

27 (a) Disclose to the agency information about its ownership and
28 financial position and to demonstrate that it has sufficient financial
29 resources to fulfill its commitments to students. Financial
30 disclosures provided to the agency shall not be subject to public
31 disclosure under chapter ((42.17 RCW)) 42.-- RCW (the new chapter
32 created in section 103 of this act);

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

35 (c) Disclose through use of a school catalog, brochure, or other
36 written material, necessary information to students so that students

1 may make informed enrollment decisions. The agency shall specify what
2 information is required;

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

8 (e) Describe accurately and completely in writing to students
9 before their enrollment prerequisites and requirements for (i)
10 completing successfully the programs of study in which they are
11 interested and (ii) qualifying for the fields of employment for which
12 their education is designed;

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

14 (g) Assess the basic skills and relevant aptitudes of each
15 potential student to determine that a potential student has the basic
16 skills and relevant aptitudes necessary to complete and benefit from
17 the program in which the student plans to enroll. Guidelines for such
18 assessments shall be developed by the agency, in consultation with the
19 schools. The method of assessment shall be reported to the agency.
20 Assessment records shall be maintained in the student's file;

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

27 (2) Any enrollment contract shall have an attachment in a format
28 provided by the agency. The attachment shall be signed by both the
29 school and the student. The attachment shall stipulate that the school
30 has complied with subsection (1)(h) of this section and that the
31 student understands and accepts his or her responsibilities in signing
32 any enrollment contract or debt application. The attachment shall also
33 stipulate that the enrollment contract shall not be binding for at
34 least five days, excluding Sundays and holidays, following signature of
35 the enrollment contract by both parties.

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

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

3 Each county auditor or county elections official shall ensure that
4 reports filed pursuant to chapter (~~(42.17 RCW)~~) 42.-- RCW (the new
5 chapter created in section 103 of this act) are arranged, handled,
6 indexed, and disclosed in a manner consistent with the rules of the
7 public disclosure commission adopted under RCW 42.17.375.

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

10 The county auditor shall produce cumulative and precinct returns
11 for each primary and election and deliver them to the canvassing board
12 for verification and certification. The precinct and cumulative
13 returns of any primary or election are public records under chapter
14 (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103 of this
15 act).

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

18 (1) Members of the county canvassing board are the county auditor,
19 who is the chair, the county prosecuting attorney, and the chair of the
20 county legislative body. If a member of the board is not available to
21 carry out the duties of the board, then the auditor may designate a
22 deputy auditor, the prosecutor may designate a deputy prosecuting
23 attorney, and the chair of the county legislative body may designate
24 another member of the county legislative body. Any such designation
25 may be made on an election-by-election basis or may be on a permanent
26 basis until revoked by the designating authority. Any such designation
27 must be in writing, and if for a specific election, must be filed with
28 the county auditor not later than the day before the first day duties
29 are to be undertaken by the canvassing board. If the designation is
30 permanent until revoked by the designating authority, then the
31 designation must be on file in the county auditor's office no later
32 than the day before the first day the designee is to undertake the
33 duties of the canvassing board.

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

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

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

7 (5) Meetings of the county canvassing board are public meetings
8 under chapter 42.30 RCW. All rules adopted by the county canvassing
9 board must be adopted in a public meeting under chapter 42.30 RCW, and
10 once adopted must be available to the public to review and copy under
11 chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103
12 of this act).

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

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

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

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

32 (b) Bank regulatory authorities with whom the director has entered
33 into agreements pursuant to RCW 30.04.060(2), and other bank regulatory
34 authorities who are the primary regulatory authority or insurer of
35 accounts for a bank holding company owning a bank, trust company, or
36 national banking association the principal operations of which are
37 conducted in this state or a subsidiary of such holding company;

1 provided that the director shall first find that the reports of
2 examination to be furnished shall receive protection from disclosure
3 comparable to that accorded by this section;

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

15 (d) The examined bank, trust company, or alien bank, or holding
16 company thereof;

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

19 (f) Liquidating agents of a distressed bank, trust company, or
20 alien bank;

21 (g) A person or organization officially connected with the bank as
22 officer, director, attorney, auditor, or independent attorney or
23 independent auditor;

24 (h) The Washington public deposit protection commission as provided
25 by RCW 39.58.105.

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

36 (4) The examination report made by the department of financial
37 institutions is designed for use in the supervision of the bank, trust
38 company, or alien bank. The report shall remain the property of the

1 director and will be furnished to the bank, trust company, or alien
2 bank solely for its confidential use. Under no circumstances shall the
3 bank, trust company, or alien bank or any of its directors, officers,
4 or employees disclose or make public in any manner the report or any
5 portion thereof, to any person or organization not connected with the
6 bank as officer, director, employee, attorney, auditor, or candidate
7 for executive office with the bank. The bank may also, after execution
8 of an agreement not to disclose information in the report, disclose the
9 report or relevant portions thereof to a party proposing to acquire or
10 merge with the bank.

11 (5) Examination reports and information obtained by the director
12 and the director's staff in conducting examinations, or obtained from
13 other state and federal bank regulatory authorities with whom the
14 director has entered into agreements pursuant to RCW 30.04.060(2), or
15 relating to examination and supervision of bank holding companies
16 owning a bank, trust company, or national banking association the
17 principal operations of which are conducted in this state or a
18 subsidiary of such holding company, or information obtained as a result
19 of applications or investigations pursuant to RCW 30.04.230, shall not
20 be subject to public disclosure under chapter (~~42.17 RCW~~) 42.-- RCW
21 (the new chapter created in section 103 of this act).

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

29 (7) This section shall not apply to investigation reports prepared
30 by the director and the director's staff concerning an application for
31 a new bank or trust company or an application for a branch of a bank,
32 trust company, or alien bank: PROVIDED, That the director may adopt
33 rules making confidential portions of the reports if in the director's
34 opinion the public disclosure of the portions of the report would
35 impair the ability to obtain the information which the director
36 considers necessary to fully evaluate the application.

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

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

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

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

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

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

30 (a) An out-of-state bank holding company desiring to make an
31 acquisition referred to under subsection (2) of this section and the
32 bank, trust company, national banking association, or domestic bank
33 holding company parent thereof, if any, proposed to be acquired shall
34 file an application in writing with the director. The director shall
35 by rule establish the fee schedule to be collected from the applicant
36 in connection with the application. The fee shall not exceed the cost
37 of processing the application. The application shall contain such
38 information as the director may prescribe by rule as necessary or

1 appropriate for the purpose of making a determination under this
2 section. The application and supporting information and all
3 examination reports and information obtained by the director and the
4 director's staff in conducting its investigation shall be confidential
5 and privileged and not subject to public disclosure under chapter
6 (~~42.17 RCW~~) 42.-- RCW (the new chapter created in section 103 of this
7 act). The application and information may be disclosed to federal bank
8 regulatory agencies and to officials empowered to investigate criminal
9 charges, subject to legal process, valid search warrant, or subpoena.
10 In any civil action in which such application or information is sought
11 to be discovered or used as evidence, any party may, upon notice to the
12 director and other parties, petition for an in camera review. The
13 court may permit discovery and introduction of only those portions that
14 are relevant and otherwise unobtainable by the requesting party. The
15 application and information shall be discoverable in any judicial
16 action challenging the approval of an acquisition by the director as
17 arbitrary and capricious or unlawful.

18 (b) The director shall find that:

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

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

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

36 (iv) The applicant out-of-state bank holding company has
37 demonstrated an acceptable record of meeting the credit needs of its

1 entire community, including low and moderate income neighborhoods,
2 consistent with the safe and sound operation of such institution.

3 (c) The director shall consider:

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

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

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

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

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

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

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

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

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

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

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

35 (3) The director shall set forth the basis for disapproval of any
36 proposed acquisition in writing and shall provide a copy of such
37 findings and order to the applicants and to the bank involved. Such

1 findings and order shall not be disclosed to any other party and shall
2 not be subject to public disclosure under chapter ((42.17 RCW)) 42.--
3 RCW (the new chapter created in section 103 of this act) unless the
4 findings and/or order are appealed pursuant to chapter 34.05 RCW.

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

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

13 (1) The following are confidential and privileged and not subject
14 to public disclosure under chapter ((42.17 RCW)) 42.-- RCW (the new
15 chapter created in section 103 of this act):

16 (a) Examination reports and information obtained by the director in
17 conducting examinations and investigations under this chapter and
18 chapter 31.13 RCW;

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

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

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

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

28 (a) Federal agencies empowered to examine credit unions or other
29 financial institutions;

30 (b) Officials empowered to investigate criminal charges. The
31 director may furnish only that part of the report which is necessary
32 and pertinent to the investigation, and only after notifying the
33 affected credit union and members of the credit union who are named in
34 that part of the examination report, or other person examined, that the
35 report is being furnished to the officials, unless the officials
36 requesting the report obtain a waiver of the notice requirement for
37 good cause from a court of competent jurisdiction;

- 1 (c) The examined credit union or other person examined, solely for
2 its confidential use;
- 3 (d) The attorney general in his or her role as legal advisor to the
4 director;
- 5 (e) Prospective merger partners or conservators, receivers, or
6 liquidating agents of a distressed credit union;
- 7 (f) Credit union regulators in other states or foreign
8 jurisdictions regarding an out-of-state or foreign credit union
9 conducting business in this state under this chapter, or regarding a
10 credit union conducting business in the other state or jurisdiction;
- 11 (g) A person officially connected with the credit union or other
12 person examined, as officer, director, supervisory committee member,
13 attorney, auditor, accountant, independent attorney, independent
14 auditor, or independent accountant;
- 15 (h) Organizations that have bonded the credit union to the extent
16 that information is relevant to the renewal of the bond coverage or to
17 a claim under the bond coverage;
- 18 (i) Organizations insuring or guaranteeing the shares of, or
19 deposits in, the credit union; or
- 20 (j) Other persons as the director may determine necessary to
21 protect the public interest and confidence.
- 22 (3) Examination reports furnished under subsection (2) of this
23 section remain the property of the director and no person to whom
24 reports are furnished or any officer, director, or employee thereof may
25 disclose or make public the reports or information contained in the
26 reports except in published statistical information that does not
27 disclose the affairs of a person, except that nothing prevents the use
28 in a criminal prosecution of reports furnished under subsection (2)(b)
29 of this section.
- 30 (4) In a civil action in which the reports or information are
31 sought to be discovered or used as evidence, a party may, upon notice
32 to the director, petition the court for an in-camera review of the
33 reports or information. The court may permit discovery and
34 introduction of only those portions of the report or information which
35 are relevant and otherwise unobtainable by the requesting party. This
36 subsection does not apply to an action brought or defended by the
37 director.

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

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

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

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

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

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

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

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

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

31 (3) Any information in the application regarding the personal
32 residential address or telephone number of the applicant, and any trade
33 secret as defined in RCW 19.108.010 including any financial statement
34 that is a trade secret, is exempt from the public records disclosure
35 requirements of chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter
36 created in section 103 of this act).

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

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

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

35 (c) The bond shall be continuous and may be canceled by the surety
36 upon the surety giving written notice to the director and licensee of
37 its intent to cancel the bond. The cancellation is effective thirty
38 days after the notice is received by the director. Whether or not the

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

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

34 (e) In lieu of the surety bond required by this section, the
35 applicant for a check seller license may file with the director a
36 deposit consisting of cash or other security acceptable to the director
37 in an amount equal to the penal sum of the required bond. In lieu of
38 the surety bond required by this section, the applicant for a small

1 loan endorsement may file with the director a deposit consisting of
2 cash or other security acceptable to the director in an amount equal to
3 the penal sum of the required bond, or may demonstrate to the director
4 net worth in excess of three times the amount of the penal sum of the
5 required bond.

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

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

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

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

36 (a) The legal name, residence, and business address of the

1 applicant, and if the applicant is a partnership, corporation, or
2 association, the name and address of every member, partner, officer,
3 and director thereof;

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

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

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

11 (2) Any information in the application regarding the licensee's
12 personal residential address or telephone number, and any trade secrets
13 of the licensee as defined under RCW 19.108.010 including any financial
14 statement that is a trade secret, is exempt from the public records
15 disclosure requirements of chapter ((42.17-RCW)) 42.-- RCW (the new
16 chapter created in section 103 of this act).

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

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

23 (1) Each licensee shall submit to the director, in a form approved
24 by the director, a report containing financial statements covering the
25 calendar year or, if the licensee has an established fiscal year, then
26 for such fiscal year, within one hundred five days after the close of
27 each calendar or fiscal year. The licensee shall also file such
28 additional relevant information as the director may require. Any
29 information provided by a licensee in an annual report that constitutes
30 a trade secret under chapter 19.108 RCW is exempt from disclosure under
31 chapter ((42.17-RCW)) 42.-- RCW (the new chapter created in section 103
32 of this act), unless aggregated with information supplied by other
33 licensees in such a manner that the licensee's individual information
34 is not identifiable. Any information provided by the licensee that
35 allows identification of the licensee may only be used for purposes
36 reasonably related to the regulation of licensees to ensure compliance
37 with this chapter.

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

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

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

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

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

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

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

34 (c) Officials empowered to investigate criminal charges subject to
35 legal process, valid search warrant, or subpoena. If the director
36 furnishes any examination report to officials empowered to investigate
37 criminal charges, the director may only furnish that part of the report

1 which is necessary and pertinent to the investigation, and the director
2 may do this only after notifying the affected mutual savings bank and
3 any customer of the mutual savings bank who is named in that part of
4 the report of the order to furnish the part of the examination report
5 unless the officials requesting the report first obtain a waiver of the
6 notice requirement from a court of competent jurisdiction for good
7 cause;

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

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

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

12 (g) A person or organization officially connected with the savings
13 bank as officer, director, attorney, auditor, or independent attorney
14 or independent auditor;

15 (h) The Washington public deposit protection commission as provided
16 by RCW 39.58.105.

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

27 (4) The examination report made by the department of financial
28 institutions is designed for use in the supervision of the mutual
29 savings bank, and the director may furnish a copy of the report to the
30 mutual savings bank examined. The report shall remain the property of
31 the director and will be furnished to the mutual savings bank solely
32 for its confidential use. Under no circumstances shall the mutual
33 savings bank or any of its trustees, officers, or employees disclose or
34 make public in any manner the report or any portion thereof, to any
35 person or organization not connected with the savings bank as officer,
36 director, employee, attorney, auditor, or candidate for executive
37 office with the bank. The savings bank may also, after execution of an

1 agreement not to disclose information in the report, disclose the
2 report or relevant portions thereof to a party proposing to acquire or
3 merge with the savings bank.

4 (5) Examination reports and information obtained by the director
5 and the director's staff in conducting examinations, or from other
6 state and federal bank regulatory authorities with whom the director
7 has entered into agreements pursuant to RCW 32.04.211, or relating to
8 examination and supervision of holding companies owning a savings bank
9 the principal operations of which are conducted in this state or a
10 subsidiary of such holding company, shall not be subject to public
11 disclosure under chapter (~~42.17~~ RCW) 42.-- RCW (the new chapter
12 created in section 103 of this act).

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

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

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

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

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

34 (a) "Control" means directly or indirectly alone or in concert with
35 others to own, control, or hold the power to vote twenty-five percent
36 or more of the outstanding stock or voting power of the controlled
37 entity;

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

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

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

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

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

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

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

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

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

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

36 (viii) Such additional information as shall be necessary to satisfy
37 the director, in the exercise of the director's discretion, that each

1 such person and associate meets the standards of character,
2 responsibility, and general fitness established for incorporators of a
3 savings bank under RCW 32.08.040.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 The director shall set forth the basis for disapproval of any
32 proposed acquisition in writing and shall provide a copy of such
33 findings and order to the applicants and to the bank involved. Such
34 findings and order shall not be disclosed to any other party and shall
35 not be subject to public disclosure under chapter (~~42.17 RCW~~) 42.--
36 RCW (the new chapter created in section 103 of this act) unless the
37 findings and/or order are appealed pursuant to chapter 34.05 RCW.

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

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

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

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

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

33 Should the applicant desire to submit any information it deems to
34 be of a confidential nature regarding any item or a part of any exhibit
35 included in any application under this chapter, the information
36 pertaining to the item or exhibit shall be separately bound and labeled
37 "confidential", and a statement shall be submitted therewith briefly

1 setting forth the grounds on which the information should be treated as
2 confidential. Only general reference thereto need be made in that
3 portion of the application which the applicant deems not to be
4 confidential. Applications under this chapter shall be made available
5 for inspection by the public, except for portions which are bound and
6 labeled "confidential" and which the director determines to withhold
7 from public availability under (~~RCW 42.17.250 through 42.17.340~~)
8 chapter 42.-- RCW (the new chapter created in section 103 of this act).
9 The applicant shall be advised of any decision by the director to make
10 public information designated as "confidential" by the applicant. Even
11 though sections of the application are considered "confidential" as far
12 as public inspection thereof is concerned, to the extent the director
13 deems necessary the director may comment on the confidential
14 submissions in any public statement in connection with the director's
15 decision on the application without prior notice to the applicant.

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

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

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

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

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

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

29 (5) Examination reports and information obtained by the director
30 and the director's staff in conducting examinations shall not be
31 subject to public disclosure under chapter (~~42.17 RCW~~) 42.-- RCW (the
32 new chapter created in section 103 of this act).

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

1 requesting party. This subsection shall not apply to an action brought
2 or defended by the director.

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

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

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

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

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

24 (3) If the agency possesses equipment capable of receiving
25 telefacsimile transmissions or recorded telephonic communications, the
26 agency may provide in its notice of hearing filed under RCW 34.05.320
27 that interested parties may comment on proposed rules by these means.
28 If the agency chooses to receive comments by these means, the notice of
29 hearing shall provide instructions for making such comments, including,
30 but not limited to, appropriate telephone numbers to be used; the date
31 and time by which comments must be received; required methods to verify
32 the receipt and authenticity of the comments; and any limitations on
33 the number of pages for telefacsimile transmission comments and on the
34 minutes of tape recorded comments. The agency shall accept comments
35 received by these means for inclusion in the official record if the
36 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 RCW~~) 42.-- RCW (the new chapter created in section 103 of this
13 act).

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

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

- 21 (i) Identifying the agency's reasons for adopting the rule;
22 (ii) Describing differences between the text of the proposed rule
23 as published in the register and the text of the rule as adopted, other
24 than editing changes, stating the reasons for differences; and
25 (iii) Summarizing all comments received regarding the proposed
26 rule, and responding to the comments by category or subject matter,
27 indicating how the final rule reflects agency consideration of the
28 comments, or why it fails to do so.

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

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

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

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

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

16 During this interim period, the newly formed city or town and its
17 governing body shall be subject to the following as though the city or
18 town were officially incorporated: RCW 4.24.470 relating to immunity;
19 chapter 42.17 RCW relating to open government; chapter 42.-- RCW (the
20 new chapter created in section 103 of this act) relating to public
21 records; chapter 40.14 RCW relating to the preservation and disposition
22 of public records; chapters 42.20 and 42.23 RCW relating to ethics and
23 conflicts of interest; chapters 42.30 and 42.32 RCW relating to open
24 public meetings and minutes; RCW 35.22.288, 35.23.221, 35.27.300,
25 35A.12.160, as appropriate, and chapter 35A.65 RCW relating to the
26 publication of notices and ordinances; RCW 35.21.875 and 35A.21.230
27 relating to the designation of an official newspaper; RCW 36.16.138
28 relating to liability insurance; RCW 35.22.620, 35.23.352, and
29 35A.40.210, as appropriate, and statutes referenced therein relating to
30 public contracts and bidding; and chapter 39.34 RCW relating to
31 interlocal cooperation. Tax anticipation or revenue anticipation notes
32 or warrants and other short-term obligations may be issued and funds
33 may be borrowed on the security of these instruments during this
34 interim period, as provided in chapter 39.50 RCW. Funds also may be
35 borrowed from federal, state, and other governmental agencies in the
36 same manner as if the city or town were officially incorporated.

37 RCW 84.52.020 and 84.52.070 shall apply to the extent that they may
38 be applicable, and the governing body of such city or town may take

1 appropriate action by ordinance during the interim period to adopt the
2 property tax levy for its first full calendar year following the
3 interim period.

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

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

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

1 For purposes of this section, the general municipal election shall be
2 the date on which city and town general elections are held throughout
3 the state of Washington, pursuant to RCW ((~~29.13.020~~)) 29A.04.330.

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

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

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

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

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

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

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

27 (4) The security section of the safety and security plan required
28 in subsection (1)(d) of this section is exempt from public disclosure
29 under chapter (~~42.17~~ RCW) 42.-- RCW (the new chapter created in
30 section 103 of this act). However, the activities and plans as
31 described in subsections (1)(a), (b), and (c), (2), and (3) of this
32 section are not subject to this exemption.

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

35 A public corporation, commission, or authority created under this
36 chapter, and officers and multimember governing body thereof, are
37 subject to general laws regulating local governments, multimember

1 governing bodies, and local governmental officials, including, but not
2 limited to, the requirement to be audited by the state auditor and
3 various accounting requirements provided under chapter 43.09 RCW, the
4 open public record requirements of chapter ((42.17 RCW)) 42.-- RCW (the
5 new chapter created in section 103 of this act), the prohibition on
6 using its facilities for campaign purposes under RCW 42.17.130, the
7 open public meetings law of chapter 42.30 RCW, the code of ethics for
8 municipal officers under chapter 42.23 RCW, and the local government
9 whistleblower law under chapter 42.41 RCW.

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

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

24 (b) The municipal research council shall contract to post the model
25 ordinance on an internet web site and to make paper copies available
26 for inspection upon request. The department of revenue and the
27 department of licensing shall post copies of or links to the model
28 ordinance on their internet web sites. Additionally, a city that
29 imposes a business and occupation tax must make copies of its ordinance
30 available for inspection and copying as provided in chapter ((42.17
31 RCW)) 42.-- RCW (the new chapter created in section 103 of this act).

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

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

4 (a) A system of credits that meets the requirements of RCW
5 35.102.060 and a form for such use;

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

17 (c) Tax reporting frequencies that meet the requirements of RCW
18 35.102.070;

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

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

22 (f) Refund provisions that meet the requirements of RCW 35.102.110;
23 and

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

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

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

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

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

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

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

1 report to the department within forty-five calendar days after the
2 reportable accident, unacceptable hazardous condition, or security
3 breach.

4 (4) The security section of the safety and security plan required
5 in subsection (1)(d) of this section is exempt from public disclosure
6 under chapter (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in
7 section 103 of this act). However, the activities and plans as
8 described in subsections (1)(a), (b), and (c), (2), and (3) of this
9 section are not subject to this exemption.

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

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

28 (2) Each county functioning under chapter 36.56 RCW shall implement
29 and comply with its system safety and security program plan. The
30 county shall perform internal safety and security audits to evaluate
31 its compliance with the plan, and submit its audit schedule to the
32 department of transportation no later than December 15th each year.
33 The county shall prepare an annual report for its internal safety and
34 security audits undertaken in the prior year and submit it to the
35 department no later than February 15th. This annual report must
36 include the dates the audits were conducted, the scope of the audit
37 activity, the audit findings and recommendations, the status of any

1 corrective actions taken as a result of the audit activity, and the
2 results of each audit in terms of the adequacy and effectiveness of the
3 plan.

4 (3) Each county shall notify the department of transportation
5 within twenty-four hours of an occurrence of a reportable accident,
6 unacceptable hazardous condition, or security breach. The department
7 may adopt rules further defining a reportable accident, unacceptable
8 hazardous condition, or security breach. The county shall investigate
9 all reportable accidents, unacceptable hazardous conditions, or
10 security breaches and provide a written investigation report to the
11 department within forty-five calendar days after the reportable
12 accident, unacceptable hazardous condition, or security breach.

13 (4) The security section of the safety and security plan required
14 in subsection (1)(d) of this section is exempt from public disclosure
15 under chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter created in
16 section 103 of this act). However, the activities and plans as
17 described in subsections (1)(a), (b), and (c), (2), and (3) of this
18 section are not subject to this exemption.

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

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

24 (2) All state agencies and local governments must utilize building
25 mapping software that complies with the building mapping software
26 standards established under RCW 36.28A.070 for any building mapped for
27 this purpose after the statewide first responder building mapping
28 information system is operational. If, prior to creation of the
29 statewide building mapping information system, a local government has
30 utilized building mapping software standards established under RCW
31 36.28A.070, the local government may continue to use its own building
32 mapping system unless the Washington association of sheriffs and police
33 chiefs provides funding to bring the local government's system in
34 compliance with the standards established under RCW 36.28A.070.

35 (3) All state and local government-owned buildings that are
36 occupied by state or local government employees must be mapped when
37 funding is provided by the Washington association of sheriffs and

1 police chiefs, or from other sources. Nothing in chapter 102, Laws of
2 2003 requires any state agency or local government to map a building
3 unless the entire cost of mapping the building is provided by the
4 Washington association of sheriffs and police chiefs, or from other
5 sources.

6 (4) Once the statewide first responder building mapping information
7 system is operational, all state and local government buildings that
8 are mapped must forward their building mapping information data to the
9 Washington association of sheriffs and police chiefs. All
10 participating privately, federally, and tribally owned buildings may
11 voluntarily forward their mapping and emergency information data to the
12 Washington association of sheriffs and police chiefs. The Washington
13 association of sheriffs and police chiefs may refuse any building
14 mapping information that does not comply with the specifications
15 described in RCW 36.28A.070.

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

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

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

27 (a) Create the statewide first responder building mapping
28 information system; and

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

31 (8) All tactical and intelligence information provided to the
32 Washington association of sheriffs and police chiefs under chapter 102,
33 Laws of 2003 is exempt from public disclosure as provided in ((RCW
34 ~~42.17.310(1)(d))~~) section 404 of this act.

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

37 (1) Each county transportation authority that owns or operates a

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

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

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

1 five calendar days after the reportable accident, unacceptable
2 hazardous condition, or security breach.

3 (4) The security section of the safety and security plan required
4 in subsection (1)(d) of this section is exempt from public disclosure
5 under chapter (~~42.17~~ RCW) 42.-- RCW (the new chapter created in
6 section 103 of this act). However, the activities and plans as
7 described in subsections (1)(a), (b), and (c), (2), and (3) of this
8 section are not subject to this exemption.

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

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

28 (2) Each public transportation benefit area shall implement and
29 comply with its system safety and security program plan. The public
30 transportation benefit area shall perform internal safety and security
31 audits to evaluate its compliance with the plan, and submit its audit
32 schedule to the department of transportation no later than December
33 15th each year. The public transportation benefit area shall prepare
34 an annual report for its internal safety and security audits undertaken
35 in the prior year and submit it to the department no later than
36 February 15th. This annual report must include the dates the audits
37 were conducted, the scope of the audit activity, the audit findings and

1 recommendations, the status of any corrective actions taken as a result
2 of the audit activity, and the results of each audit in terms of the
3 adequacy and effectiveness of the plan.

4 (3) Each public transportation benefit area shall notify the
5 department of transportation within twenty-four hours of an occurrence
6 of a reportable accident, unacceptable hazardous condition, or security
7 breach. The department may adopt rules further defining a reportable
8 accident, unacceptable hazardous condition, or security breach. The
9 public transportation benefit area shall investigate all reportable
10 accidents, unacceptable hazardous conditions, or security breaches and
11 provide a written investigation report to the department within forty-
12 five calendar days after the reportable accident, unacceptable
13 hazardous condition, or security breach.

14 (4) The security section of the safety and security plan required
15 in subsection (1)(d) of this section is exempt from public disclosure
16 under chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter created in
17 section 103 of this act). However, the activities and plans as
18 described in subsections (1)(a), (b), and (c), (2), and (3) of this
19 section are not subject to this exemption.

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

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

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

27 (a) Make available to permit applicants all current local
28 government regulations and adopted policies that apply to the subject
29 application. The local government shall provide counter copies thereof
30 and, upon request, provide copies according to chapter (~~42.17 RCW~~)
31 42.-- RCW (the new chapter created in section 103 of this act). The
32 staff shall also publish and keep current one or more handouts
33 containing lists and explanations of all local government regulations
34 and adopted policies;

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

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

3 (3) Permit assistance staff designated under this section may
4 obtain technical assistance and support in the compilation and
5 production of the handouts under subsection (2) of this section from
6 the municipal research council and the department of community, trade,
7 and economic development.

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

10 (1) When the land use decision being reviewed was made by a
11 quasi-judicial body or officer who made factual determinations in
12 support of the decision and the parties to the quasi-judicial
13 proceeding had an opportunity consistent with due process to make a
14 record on the factual issues, judicial review of factual issues and the
15 conclusions drawn from the factual issues shall be confined to the
16 record created by the quasi-judicial body or officer, except as
17 provided in subsections (2) through (4) of this section.

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

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

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

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

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

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

34 (5) The parties may not conduct pretrial discovery except with the
35 prior permission of the court, which may be sought by motion at any
36 time after service of the petition. The court shall not grant
37 permission unless the party requesting it makes a prima facie showing

1 of need. The court shall strictly limit discovery to what is necessary
2 for equitable and timely review of the issues that are raised under
3 subsections (2) and (3) of this section. If the court allows the
4 record to be supplemented, the court shall require the parties to
5 disclose before the hearing or trial on the merits the specific
6 evidence they intend to offer. If any party, or anyone acting on
7 behalf of any party, requests records under chapter ((42.17-RCW)) 42.--
8 RCW (the new chapter created in section 103 of this act) relating to
9 the matters at issue, a copy of the request shall simultaneously be
10 given to all other parties and the court shall take such request into
11 account in fashioning an equitable discovery order under this section.

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

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

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

19 (1) Except as provided in subsection (2) of this section, all
20 proceedings, records, contracts, and other public records relating to
21 alternative public works transactions under this chapter shall be open
22 to the inspection of any interested person, firm, or corporation in
23 accordance with chapter ((42.17-RCW)) 42.-- RCW (the new chapter
24 created in section 103 of this act).

25 (2) Trade secrets, as defined in RCW 19.108.010, or other
26 proprietary information submitted by a bidder, offeror, or contractor
27 in connection with an alternative public works transaction under this
28 chapter shall not be subject to chapter ((42.17-RCW)) 42.-- RCW (the
29 new chapter created in section 103 of this act) if the bidder, offeror,
30 or contractor specifically states in writing the reasons why protection
31 is necessary, and identifies the data or materials to be protected.

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

34 (1) The governor or the governor's designee shall take such other

1 action as may be necessary to maximize the economy, efficiency, and
2 effectiveness of state publications and to do so may eliminate,
3 consolidate, or simplify state agency publications.

4 (2) Nothing in this chapter shall be construed in any way as
5 restricting public access to public records or the public right to copy
6 such records as provided by (~~RCW 42.17.250 through 42.17.340 as now~~
7 ~~existing or hereafter amended~~) chapter 42.-- RCW (the new chapter
8 created in section 103 of this act).

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

11 (1) When soliciting proposals for the purpose of awarding contracts
12 for goods or services, the administrator shall, upon written request by
13 the bidder, exempt from public inspection and copying such proprietary
14 data, trade secrets, or other information contained in the bidder's
15 proposal that relate to the bidder's unique methods of conducting
16 business or of determining prices or premium rates to be charged for
17 services under terms of the proposal.

18 (2) When soliciting information for the development, acquisition,
19 or implementation of state purchased health care services, the
20 administrator shall, upon written request by the respondent, exempt
21 from public inspection and copying such proprietary data, trade
22 secrets, or other information submitted by the respondent that relate
23 to the respondent's unique methods of conducting business, data unique
24 to the product or services of the respondent, or to determining prices
25 or rates to be charged for services.

26 (3) Actuarial formulas, statistics, cost and utilization data, or
27 other proprietary information submitted upon request of the
28 administrator, board, or a technical review committee created to
29 facilitate the development, acquisition, or implementation of state
30 purchased health care under this chapter by a contracting insurer,
31 health care service contractor, health maintenance organization,
32 vendor, or other health services organization may be withheld at any
33 time from public inspection when necessary to preserve trade secrets or
34 prevent unfair competition.

35 (4) The board, or a technical review committee created to
36 facilitate the development, acquisition, or implementation of state
37 purchased health care under this chapter, may hold an executive session

1 in accordance with chapter 42.30 RCW during any regular or special
2 meeting to discuss information submitted in accordance with subsections
3 (1) through (3) of this section.

4 (5) A person who challenges a request for or designation of
5 information as exempt under this section is entitled to seek judicial
6 review pursuant to chapter ((42.17-RCW)) 42.-- RCW (the new chapter
7 created in section 103 of this act).

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

10 In preparing classification and salary schedules as set forth in
11 RCW 41.06.150 the department of personnel shall give full consideration
12 to prevailing rates in other public employment and in private
13 employment in this state. For this purpose the department shall
14 undertake comprehensive salary and fringe benefit surveys.

15 Salary and fringe benefit survey information collected from private
16 employers which identifies a specific employer with the salary and
17 fringe benefit rates which that employer pays to its employees shall
18 not be subject to public disclosure under chapter ((42.17-RCW)) 42.--
19 RCW (the new chapter created in section 103 of this act).

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

22 The department of personnel shall undertake comprehensive
23 compensation surveys for officers and entry-level officer candidates of
24 the Washington state patrol, with such surveys to be conducted in the
25 year prior to the convening of every other one hundred five day regular
26 session of the state legislature. Salary and fringe benefit survey
27 information collected from private employers which identifies a
28 specific employer with the salary and fringe benefit rates which that
29 employer pays to its employees shall not be subject to public
30 disclosure under chapter ((42.17-RCW)) 42.-- RCW (the new chapter
31 created in section 103 of this act).

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

34 (1) The director shall adopt rules applicable to each agency to

1 ensure that information relating to employee misconduct or alleged
2 misconduct is destroyed or maintained as follows:

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

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

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

12 (2) Notwithstanding subsection (1) of this section, an agency may
13 retain information relating to employee misconduct or alleged
14 misconduct if:

15 (a) The employee requests that the information be retained; or

16 (b) The information is related to pending legal action or legal
17 action may be reasonably expected to result.

18 (3) In adopting rules under this section, the director shall
19 consult with the public disclosure commission to ensure that the public
20 policy of the state, as expressed in chapters 42.17 and 42.-- (the new
21 chapter created in section 103 of this act) RCW, is adequately
22 protected.

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

25 RCW 41.06.450 does not prohibit an agency from destroying
26 identifying information in records relating to employee misconduct or
27 alleged misconduct if the agency deems the action is consistent with
28 the policy expressed in RCW 41.06.450 and in chapter ~~((42.17—RCW))~~
29 42.-- RCW (the new chapter created in section 103 of this act).

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

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

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

6 (2) A report disclosing for the previous calendar year: (a) The
7 name and address of each financial institution in which the treasurer
8 or, in the case of a county, a member of the county finance committee,
9 held during the reporting period an office, directorship, partnership
10 interest, or ownership interest which holds or has held during the
11 reporting period public accounts of the governmental entity for which
12 the treasurer is responsible; (b) the aggregate sum of time and demand
13 deposits held in each such financial institution on December 31; and
14 (c) the highest balance held at any time during such reporting period:
15 PROVIDED, That the state treasurer shall disclose the highest balance
16 information only upon request under ((~~RCW 42.17.250 through 42.17.330~~))
17 chapter 42.-- RCW (the new chapter created in section 103 of this act).
18 The statement or report required by this section shall be filed either
19 with the statement required under RCW 42.17.240 or separately.

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

22 The people of this state do not yield their sovereignty to the
23 agencies that serve them. The people, in delegating authority, do not
24 give their public servants the right to decide what is good for the
25 people to know and what is not good for them to know. The people
26 insist on remaining informed so that they may maintain control over the
27 instruments that they have created. ((~~The public records subdivision~~
28 ~~of~~)) This chapter shall be liberally construed and its exemptions
29 narrowly construed to promote this public policy.

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

32 (1) Each agency, in accordance with published rules, shall make
33 available for public inspection and copying all public records, unless
34 the record falls within the specific exemptions of subsection (6) of
35 this section, ((~~RCW 42.17.310, 42.17.315~~)) this chapter, or other
36 statute which exempts or prohibits disclosure of specific information

1 or records. To the extent required to prevent an unreasonable invasion
2 of personal privacy interests protected by ((RCW ~~42.17.310~~ and
3 ~~42.17.315~~)) this chapter, an agency shall delete identifying details in
4 a manner consistent with ((RCW ~~42.17.310~~ and ~~42.17.315~~)) this chapter
5 when it makes available or publishes any public record; however, in
6 each case, the justification for the deletion shall be explained fully
7 in writing.

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

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

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

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

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

24 (d) Planning policies and goals, and interim and final planning
25 decisions;

26 (e) Factual staff reports and studies, factual consultant's reports
27 and studies, scientific reports and studies, and any other factual
28 information derived from tests, studies, reports, or surveys, whether
29 conducted by public employees or others; and

30 (f) Correspondence, and materials referred to therein, by and with
31 the agency relating to any regulatory, supervisory, or enforcement
32 responsibilities of the agency, whereby the agency determines, or
33 opines upon, or is asked to determine or opine upon, the rights of the
34 state, the public, a subdivision of state government, or of any private
35 party.

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

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

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

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

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

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

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

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

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

22 Rules establishing systems of indexing shall include, but not be
23 limited to, requirements for the form and content of the index, its
24 location and availability to the public, and the schedule for revising
25 or updating the index. State agencies that have maintained indexes for
26 records issued before July 1, 1990, shall continue to make such indexes
27 available for public inspection and copying. Information in such
28 indexes may be incorporated into indexes prepared pursuant to this
29 subsection. State agencies may satisfy the requirements of this
30 subsection by making available to the public indexes prepared by other
31 parties but actually used by the agency in its operations. State
32 agencies shall make indexes available for public inspection and
33 copying. State agencies may charge a fee to cover the actual costs of
34 providing individual mailed copies of indexes.

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

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

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

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

8 (a) In determining the actual per page cost for providing
9 photocopies of public records, an agency may include all costs directly
10 incident to copying such public records including the actual cost of
11 the paper and the per page cost for use of agency copying equipment.
12 In determining other actual costs for providing photocopies of public
13 records, an agency may include all costs directly incident to shipping
14 such public records, including the cost of postage or delivery charges
15 and the cost of any container or envelope used.

16 (b) In determining the actual per page cost or other costs for
17 providing copies of public records, an agency may not include staff
18 salaries, benefits, or other general administrative or overhead
19 charges, unless those costs are directly related to the actual cost of
20 copying the public records. Staff time to copy and mail the requested
21 public records may be included in an agency's costs.

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

29 (9) This chapter shall not be construed as giving authority to any
30 agency, the office of the secretary of the senate, or the office of the
31 chief clerk of the house of representatives to give, sell or provide
32 access to lists of individuals requested for commercial purposes, and
33 agencies, the office of the secretary of the senate, and the office of
34 the chief clerk of the house of representatives shall not do so unless
35 specifically authorized or directed by law: PROVIDED, HOWEVER, That
36 lists of applicants for professional licenses and of professional
37 licensees shall be made available to those professional associations or
38 educational organizations recognized by their professional licensing or

1 examination board, upon payment of a reasonable charge therefor:
2 PROVIDED FURTHER, That such recognition may be refused only for a good
3 cause pursuant to a hearing under the provisions of chapter 34.05 RCW,
4 the Administrative Procedure Act.

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

7 Public records shall be available for inspection and copying, and
8 agencies shall, upon request for identifiable public records, make them
9 promptly available to any person. Agencies shall not distinguish among
10 persons requesting records, and such persons shall not be required to
11 provide information as to the purpose for the request except to
12 establish whether inspection and copying would violate RCW
13 42.17.260(~~(+5)~~) (9) (as recodified by this act) or other statute which
14 exempts or prohibits disclosure of specific information or records to
15 certain persons. Agency facilities shall be made available to any
16 person for the copying of public records except when and to the extent
17 that this would unreasonably disrupt the operations of the agency.
18 Agencies shall honor requests received by mail for identifiable public
19 records unless exempted by provisions of this chapter.

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

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

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

29 Nothing in (~~RCW 42.17.310(1) (t) through (v)~~) sections 405 and
30 413 of this act shall affect a positive duty of an agency to disclose
31 or a positive duty to withhold information which duty to disclose or
32 withhold is contained in any other law.

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

1 (1) Upon the motion of any person having been denied an opportunity
2 to inspect or copy a public record by an agency, the superior court in
3 the county in which a record is maintained may require the responsible
4 agency to show cause why it has refused to allow inspection or copying
5 of a specific public record or class of records. The burden of proof
6 shall be on the agency to establish that refusal to permit public
7 inspection and copying is in accordance with a statute that exempts or
8 prohibits disclosure in whole or in part of specific information or
9 records.

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

16 (3) Judicial review of all agency actions taken or challenged under
17 RCW 42.17.250 through 42.17.320 (as recodified by this act) shall be de
18 novo. Courts shall take into account the policy of this chapter that
19 free and open examination of public records is in the public interest,
20 even though such examination may cause inconvenience or embarrassment
21 to public officials or others. Courts may examine any record in camera
22 in any proceeding brought under this section. The court may conduct a
23 hearing based solely on affidavits.

24 (4) Any person who prevails against an agency in any action in the
25 courts seeking the right to inspect or copy any public record or the
26 right to receive a response to a public record request within a
27 reasonable amount of time shall be awarded all costs, including
28 reasonable attorney fees, incurred in connection with such legal
29 action. In addition, it shall be within the discretion of the court to
30 award such person an amount not less than five dollars and not to
31 exceed one hundred dollars for each day that he was denied the right to
32 inspect or copy said public record.

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

35 The procedures in RCW 42.17.340 (as recodified by this act) govern
36 denials of an opportunity to inspect or copy a public record by the

1 office of the secretary of the senate or the office of the chief clerk
2 of the house of representatives.

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

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

8 **Sec. 291.** RCW 42.48.030 and 1985 c 334 s 3 are each amended to
9 read as follows:

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

14 (1) Manual or computer screening of personal records for scientific
15 sampling purposes according to specifications provided by the research
16 professional;

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

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

23 The charges imposed by the agency may not exceed the amount
24 necessary to reimburse the agency for its actual costs in providing
25 requested research assistance.

26 **Sec. 292.** RCW 42.52.050 and 1996 c 213 s 4 are each amended to
27 read as follows:

28 (1) No state officer or state employee may accept employment or
29 engage in any business or professional activity that the officer or
30 employee might reasonably expect would require or induce him or her to
31 make an unauthorized disclosure of confidential information acquired by
32 the official or employee by reason of the official's or employee's
33 official position.

34 (2) No state officer or state employee may make a disclosure of
35 confidential information gained by reason of the officer's or

1 employee's official position or otherwise use the information for his
2 or her personal gain or benefit or the gain or benefit of another,
3 unless the disclosure has been authorized by statute or by the terms of
4 a contract involving (a) the state officer's or state employee's agency
5 and (b) the person or persons who have authority to waive the
6 confidentiality of the information.

7 (3) No state officer or state employee may disclose confidential
8 information to any person not entitled or authorized to receive the
9 information.

10 (4) No state officer or state employee may intentionally conceal a
11 record if the officer or employee knew the record was required to be
12 released under chapter ((42.17 RCW)) 42.-- RCW (the new chapter created
13 in section 103 of this act), was under a personal obligation to release
14 the record, and failed to do so. This subsection does not apply where
15 the decision to withhold the record was made in good faith.

16 **Sec. 293.** RCW 42.52.810 and 2003 c 265 s 2 are each amended to
17 read as follows:

18 (1) When soliciting charitable gifts, grants, or donations solely
19 for the legislative international trade account created in RCW
20 44.04.270, the president of the senate is presumed not to be in
21 violation of the solicitation and receipt of gift provisions in RCW
22 42.52.140.

23 (2) When soliciting charitable gifts, grants, or donations solely
24 for the legislative international trade account created in RCW
25 44.04.270, state officers and state employees are presumed not to be in
26 violation of the solicitation and receipt of gift provisions in RCW
27 42.52.140.

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

33 **Sec. 294.** RCW 43.06A.050 and 1996 c 131 s 6 are each amended to
34 read as follows:

35 The ombudsman shall treat all matters under investigation,
36 including the identities of service recipients, complainants, and

1 individuals from whom information is acquired, as confidential, except
2 as far as disclosures may be necessary to enable the ombudsman to
3 perform the duties of the office and to support any recommendations
4 resulting from an investigation. Upon receipt of information that by
5 law is confidential or privileged, the ombudsman shall maintain the
6 confidentiality of such information and shall not further disclose or
7 disseminate the information except as provided by applicable state or
8 federal law. Investigative records of the office of the ombudsman are
9 confidential and are exempt from public disclosure under chapter
10 (~~42.17 RCW~~) 42.-- RCW (the new chapter created in section 103 of this
11 act).

12 **Sec. 295.** RCW 43.21L.120 and 2003 c 393 s 13 are each amended to
13 read as follows:

14 (1) For all permit decisions being reviewed that were made by
15 quasi-judicial bodies or permit agency officers who made factual
16 determinations in support of the decisions, after the conduct of
17 proceedings in which the parties had an opportunity consistent with due
18 process to make records on the factual issues, board review of factual
19 issues and the conclusions drawn from the factual issues shall be
20 confined to the records created by the quasi-judicial bodies or permit
21 agency officers, except as provided in subsections (2) through (4) of
22 this section.

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

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

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

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

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

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

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

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

13 (c) If any party, or anyone acting on behalf of any party, requests
14 records under chapter ((42.17 RCW)) 42.-- RCW (the new chapter created
15 in section 103 of this act) relating to the matters at issue, a copy of
16 the request shall simultaneously be given to all other parties, and the
17 board shall take such request into account in fashioning an equitable
18 discovery order under this section.

19 **Sec. 296.** RCW 43.22.434 and 2004 c 137 s 1 are each amended to
20 read as follows:

21 (1) The director or the director's authorized representative may
22 conduct such inspections, investigations, and audits as may be
23 necessary to adopt or enforce manufactured and mobile home, commercial
24 coach, conversion vending units, medical units, recreational vehicle,
25 park trailer, factory built housing, and factory built commercial
26 structure rules adopted under the authority of this chapter or to carry
27 out the director's duties under this chapter.

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

31 (a) At reasonable times and without advance notice enter any
32 factory, warehouse, or establishment in which manufactured and mobile
33 homes, commercial coaches, conversion vending units, medical units,
34 recreational vehicles, park trailers, factory built housing, and
35 factory built commercial structures are manufactured, stored, or held
36 for sale;

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

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

9 (3) For purposes of determining compliance with this chapter's
10 permitting requirements for alterations of mobile and manufactured
11 homes, the department may audit the records of a contractor as defined
12 in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor
13 as defined in RCW 19.28.006 when the department has reason to believe
14 that a violation of the permitting requirements has occurred. The
15 department shall adopt rules implementing the auditing procedures.
16 Information obtained from a contractor through an audit authorized by
17 this subsection is confidential and not open to public inspection under
18 chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103
19 of this act).

20 (4)(a) The department shall set a schedule of fees by rule which
21 will cover the costs incurred by the department in the administration
22 of RCW 43.22.335 through 43.22.490. The department may waive
23 mobile/manufactured home alteration permit fees for indigent permit
24 applicants.

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

30 (ii) Effective April 1, 2009, the department must adopt a new fee
31 schedule that is the same as the fee schedule that was in effect
32 immediately prior to the temporary fee schedule authorized in (b)(i) of
33 this subsection. However, the new fee schedule must be adjusted by the
34 fiscal growth factors not applied during the period that the temporary
35 fee schedule was in effect.

36 **Sec. 297.** RCW 43.33A.025 and 2000 c 188 s 1 are each amended to
37 read as follows:

1 (1) Notwithstanding any provision of RCW 43.43.700 through
2 43.43.815, the state investment board shall require a criminal history
3 record check for conviction records through the Washington state patrol
4 criminal identification system, and through the federal bureau of
5 investigation, for the purpose of conducting preemployment evaluations
6 of each finalist candidate for a board staff position exempt from the
7 provisions of chapter 41.06 RCW, or for any other position in which the
8 employee will have authority for or access to: (a) Funds under the
9 jurisdiction or responsibility of the investment board; or (b) data or
10 security systems of the investment board or designs for such systems.
11 The record check shall include a fingerprint check using a complete
12 Washington state criminal identification fingerprint card, which shall
13 be forwarded by the state patrol to the federal bureau of
14 investigation.

15 (2) Information received by the investment board pursuant to this
16 section shall be made available by the investment board only to board
17 employees involved in the selection, hiring, background investigation,
18 or job assignment of the person who is the subject of the record check,
19 or to that subject person, and it shall be used only for the purposes
20 of making, supporting, or defending decisions regarding the appointment
21 or hiring of persons for these positions, or securing any necessary
22 bonds or other requirements for such employment. Otherwise, the
23 reports, and information contained therein, shall remain confidential
24 and shall not be subject to the disclosure requirements of chapter
25 (~~42.17 RCW~~) 42.-- RCW (the new chapter created in section 103 of this
26 act).

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

30 **Sec. 298.** RCW 43.43.856 and 2003 c 53 s 230 are each amended to
31 read as follows:

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

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

3 (2) Except as provided in RCW 43.43.854, or pursuant to the rules
4 of the supreme court of Washington, all of the information and data
5 collected and processed by the organized crime intelligence unit shall
6 be confidential and not subject to examination or publication pursuant
7 to chapter ((~~42.17 RCW (Initiative Measure No. 276)~~)) 42.-- RCW (the
8 new chapter created in section 103 of this act).

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

14 **Sec. 299.** RCW 43.52.570 and 1987 c 376 s 3 are each amended to
15 read as follows:

16 For the awarding of a contract to purchase any item or items of
17 materials, equipment, or supplies in an amount exceeding five thousand
18 dollars but less than seventy-five thousand dollars, exclusive of sales
19 tax, the managing director or a designee may, in lieu of sealed bids,
20 secure telephone and/or written quotations from at least five vendors,
21 where practical, and award contracts for purchase of materials,
22 equipment, or supplies to the lowest responsible bidder. The agency
23 shall establish a procurement roster, which shall consist of suppliers
24 and manufacturers who may supply materials or equipment to the
25 operating agency, and shall provide for solicitations which will
26 equitably distribute opportunity for bids among suppliers and
27 manufacturers on the roster. Immediately after the award is made, the
28 bid quotations obtained shall be recorded and shall be posted or
29 otherwise made available for public inspection and copying pursuant to
30 chapter ((~~42.17 RCW~~)) 42.-- RCW (the new chapter created in section 103
31 of this act) at the office of the operating agency or any other
32 officially designated location. Waiver of the deposit or bid bond
33 required for sealed bids may be authorized by the operating agency in
34 securing the bid quotations.

35 **Sec. 300.** RCW 43.52.612 and 1982 1st ex.s. c 44 s 5 are each
36 amended to read as follows:

1 A joint operating agency shall require that bids upon any
2 construction or improvement of any nuclear generating project and
3 associated facilities shall be made upon the contract bid form supplied
4 by the operating agency, and in no other manner. The operating agency
5 may, before furnishing any person, firm, or corporation desiring to bid
6 upon any work with a contract bid form, require from the person, firm,
7 or corporation, answers to questions contained in a standard form of
8 questionnaire and financial statement, including a complete statement
9 of the financial ability and experience of the person, firm, or
10 corporation in performing work. The questionnaire shall be sworn to
11 before a notary public or other person authorized to take
12 acknowledgement of deeds and shall be submitted once a year or at such
13 other times as the operating agency may require. Whenever the
14 operating agency is not satisfied with the sufficiency of the answers
15 contained in the questionnaire and financial statement or whenever the
16 operating agency determines that the person, firm, or corporation does
17 not meet all of the requirements set forth in this section, it may
18 refuse to furnish the person, firm, or corporation with a contract bid
19 form and any bid of the person, firm, or corporation must be
20 disregarded. The operating agency shall require that a person, firm,
21 or corporation have all of the following requirements in order to
22 obtain a contract form:

23 (1) Adequate financial resources, the ability to secure these
24 resources, or the capability to secure a one hundred percent payment
25 and performance bond;

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

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

30 (4) A satisfactory record of performance, integrity, judgment, and
31 skills; and

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

34 The refusal shall be conclusive unless appealed to the superior
35 court of the county where the operating agency is situated or Thurston
36 county within fifteen days, which appeal shall be heard summarily
37 within ten days after the appeal is made and on five days' notice
38 thereof to the operating agency.

1 The prevailing party in such litigation shall be awarded its
2 attorney fees and costs.

3 The operating agency shall not be required to make available for
4 public inspection or copying under chapter ((42.17-RCW)) 42.-- RCW (the
5 new chapter created in section 103 of this act) financial information
6 provided under this section.

7 **Sec. 301.** RCW 43.70.050 and 1989 1st ex.s. c 9 s 107 are each
8 amended to read as follows:

9 (1) The legislature intends that the department((~~7~~)) and board((~~7~~
10 ~~and council~~)) promote and assess the quality, cost, and accessibility
11 of health care throughout the state as their roles are specified in
12 chapter 9, Laws of 1989 1st ex. sess. in accordance with the provisions
13 of this chapter. In furtherance of this goal, the secretary shall
14 create an ongoing program of data collection, storage, assessability,
15 and review. The legislature does not intend that the department
16 conduct or contract for the conduct of basic research activity. The
17 secretary may request appropriations for studies according to this
18 section from the legislature, the federal government, or private
19 sources.

20 (2) All state agencies which collect or have access to population-
21 based, health-related data are directed to allow the secretary access
22 to such data. This includes, but is not limited to, data on needed
23 health services, facilities, and personnel; future health issues;
24 emerging bioethical issues; health promotion; recommendations from
25 state and national organizations and associations; and programmatic and
26 statutory changes needed to address emerging health needs. Private
27 entities, such as insurance companies, health maintenance
28 organizations, and private purchasers are also encouraged to give the
29 secretary access to such data in their possession. The secretary's
30 access to and use of all data shall be in accordance with state and
31 federal confidentiality laws and ethical guidelines. Such data in any
32 form where the patient or provider of health care can be identified
33 shall not be disclosed, subject to disclosure according to chapter
34 ((42.17-RCW)) 42.-- RCW (the new chapter created in section 103 of this
35 act), discoverable or admissible in judicial or administrative
36 proceedings. Such data can be used in proceedings in which the use of

1 the data is clearly relevant and necessary and both the department and
2 the patient or provider are parties.

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

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

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

11 (i) Identification of variations of health practice which indicate
12 a lack of consensus of appropriateness;

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

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

17 (iv) Evaluation of the risks and benefits of various incentives
18 aimed at individuals and providers for both preventing illnesses and
19 improving health services;

20 (v) Identification and evaluation of bioethical issues affecting
21 the people of the state; and

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

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

29 (c) Provide background for the state health report required by RCW
30 43.20.050.

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

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

1 **Sec. 302.** RCW 43.70.510 and 2004 c 145 s 2 are each amended to
2 read as follows:

3 (1)(a) Health care institutions and medical facilities, other than
4 hospitals, that are licensed by the department, professional societies
5 or organizations, health care service contractors, health maintenance
6 organizations, health carriers approved pursuant to chapter 48.43 RCW,
7 and any other person or entity providing health care coverage under
8 chapter 48.42 RCW that is subject to the jurisdiction and regulation of
9 any state agency or any subdivision thereof may maintain a coordinated
10 quality improvement program for the improvement of the quality of
11 health care services rendered to patients and the identification and
12 prevention of medical malpractice as set forth in RCW 70.41.200.

13 (b) All such programs shall comply with the requirements of RCW
14 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to
15 reflect the structural organization of the institution, facility,
16 professional societies or organizations, health care service
17 contractors, health maintenance organizations, health carriers, or any
18 other person or entity providing health care coverage under chapter
19 48.42 RCW that is subject to the jurisdiction and regulation of any
20 state agency or any subdivision thereof, unless an alternative quality
21 improvement program substantially equivalent to RCW 70.41.200(1)(a) is
22 developed. All such programs, whether complying with the requirement
23 set forth in RCW 70.41.200(1)(a) or in the form of an alternative
24 program, must be approved by the department before the discovery
25 limitations provided in subsections (3) and (4) of this section and the
26 exemption under (~~RCW 42.17.310(1)(hh)~~) section 416(1)(c) of this act
27 and subsection (5) of this section shall apply. In reviewing plans
28 submitted by licensed entities that are associated with physicians'
29 offices, the department shall ensure that the exemption under (~~RCW~~
30 ~~42.17.310(1)(hh)~~) section 416(1)(c) of this act and the discovery
31 limitations of this section are applied only to information and
32 documents related specifically to quality improvement activities
33 undertaken by the licensed entity.

34 (2) Health care provider groups of five or more providers may
35 maintain a coordinated quality improvement program for the improvement
36 of the quality of health care services rendered to patients and the
37 identification and prevention of medical malpractice as set forth in
38 RCW 70.41.200. All such programs shall comply with the requirements of

1 RCW 70.41.200(1) (a), (c), (d), (e), (f), (g), and (h) as modified to
2 reflect the structural organization of the health care provider group.
3 All such programs must be approved by the department before the
4 discovery limitations provided in subsections (3) and (4) of this
5 section and the exemption under ((~~RCW 42.17.310(1)(hh)~~)) section
6 416(1)(c) of this act and subsection (5) of this section shall apply.

7 (3) Any person who, in substantial good faith, provides information
8 to further the purposes of the quality improvement and medical
9 malpractice prevention program or who, in substantial good faith,
10 participates on the quality improvement committee shall not be subject
11 to an action for civil damages or other relief as a result of such
12 activity. Any person or entity participating in a coordinated quality
13 improvement program that, in substantial good faith, shares information
14 or documents with one or more other programs, committees, or boards
15 under subsection (6) of this section is not subject to an action for
16 civil damages or other relief as a result of the activity or its
17 consequences. For the purposes of this section, sharing information is
18 presumed to be in substantial good faith. However, the presumption may
19 be rebutted upon a showing of clear, cogent, and convincing evidence
20 that the information shared was knowingly false or deliberately
21 misleading.

22 (4) Information and documents, including complaints and incident
23 reports, created specifically for, and collected, and maintained by a
24 quality improvement committee are not subject to discovery or
25 introduction into evidence in any civil action, and no person who was
26 in attendance at a meeting of such committee or who participated in the
27 creation, collection, or maintenance of information or documents
28 specifically for the committee shall be permitted or required to
29 testify in any civil action as to the content of such proceedings or
30 the documents and information prepared specifically for the committee.
31 This subsection does not preclude: (a) In any civil action, the
32 discovery of the identity of persons involved in the medical care that
33 is the basis of the civil action whose involvement was independent of
34 any quality improvement activity; (b) in any civil action, the
35 testimony of any person concerning the facts that form the basis for
36 the institution of such proceedings of which the person had personal
37 knowledge acquired independently of such proceedings; (c) in any civil
38 action by a health care provider regarding the restriction or

1 revocation of that individual's clinical or staff privileges,
2 introduction into evidence information collected and maintained by
3 quality improvement committees regarding such health care provider; (d)
4 in any civil action challenging the termination of a contract by a
5 state agency with any entity maintaining a coordinated quality
6 improvement program under this section if the termination was on the
7 basis of quality of care concerns, introduction into evidence of
8 information created, collected, or maintained by the quality
9 improvement committees of the subject entity, which may be under terms
10 of a protective order as specified by the court; (e) in any civil
11 action, disclosure of the fact that staff privileges were terminated or
12 restricted, including the specific restrictions imposed, if any and the
13 reasons for the restrictions; or (f) in any civil action, discovery and
14 introduction into evidence of the patient's medical records required by
15 rule of the department of health to be made regarding the care and
16 treatment received.

17 (5) Information and documents created specifically for, and
18 collected and maintained by a quality improvement committee are exempt
19 from disclosure under chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter
20 created in section 103 of this act).

21 (6) A coordinated quality improvement program may share information
22 and documents, including complaints and incident reports, created
23 specifically for, and collected and maintained by a quality improvement
24 committee or a peer review committee under RCW 4.24.250 with one or
25 more other coordinated quality improvement programs maintained in
26 accordance with this section or with RCW 70.41.200 or a peer review
27 committee under RCW 4.24.250, for the improvement of the quality of
28 health care services rendered to patients and the identification and
29 prevention of medical malpractice. The privacy protections of chapter
30 70.02 RCW and the federal health insurance portability and
31 accountability act of 1996 and its implementing regulations apply to
32 the sharing of individually identifiable patient information held by a
33 coordinated quality improvement program. Any rules necessary to
34 implement this section shall meet the requirements of applicable
35 federal and state privacy laws. Information and documents disclosed by
36 one coordinated quality improvement program to another coordinated
37 quality improvement program or a peer review committee under RCW
38 4.24.250 and any information and documents created or maintained as a

1 result of the sharing of information and documents shall not be subject
2 to the discovery process and confidentiality shall be respected as
3 required by subsection (4) of this section and RCW 4.24.250.

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

6 **Sec. 303.** RCW 44.05.080 and 1983 c 16 s 8 are each amended to read
7 as follows:

8 In addition to other duties prescribed by law, the commission
9 shall:

10 (1) Adopt rules pursuant to the Administrative Procedure Act,
11 chapter 34.05 RCW, to carry out the provisions of Article II, section
12 43 of the state Constitution and of this chapter, which rules shall
13 provide that three voting members of the commission constitute a quorum
14 to do business, and that the votes of three of the voting members are
15 required for any official action of the commission;

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

18 (3) Comply with requirements to disclose and preserve public
19 records as specified in chapters 40.14 and (~~42.17 RCW~~) 42.-- RCW (the
20 new chapter created in section 103 of this act);

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

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

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

25 (7) Prepare and publish a report with the plan; the report will be
26 made available to the public at the time the plan is published. The
27 report will include but will not be limited to: (a) The population and
28 percentage deviation from the average district population for every
29 district; (b) an explanation of the criteria used in developing the
30 plan with a justification of any deviation in a district from the
31 average district population; (c) a map of all the districts; and (d)
32 the estimated cost incurred by the counties for adjusting precinct
33 boundaries.

34 **Sec. 304.** RCW 46.12.380 and 1995 c 254 s 10 are each amended to
35 read as follows:

36 (1) Notwithstanding the provisions of chapter (~~42.17 RCW~~) 42.--

1 RCW (the new chapter created in section 103 of this act), the name or
2 address of an individual vehicle owner shall not be released by the
3 department, county auditor, or agency or firm authorized by the
4 department except under the following circumstances:

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

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

11 (c) The requesting party enters into a disclosure agreement with
12 the department in which the party promises that the party will use the
13 information only for the purpose stated in the request for the
14 information; and that the party does not intend to use, or facilitate
15 the use of, the information for the purpose of making any unsolicited
16 business contact with a person named in the disclosed information. The
17 term "unsolicited business contact" means a contact that is intended to
18 result in, or promote, the sale of any goods or services to a person
19 named in the disclosed information. The term does not apply to
20 situations where the requesting party and such person have been
21 involved in a business transaction prior to the date of the disclosure
22 request and where the request is made in connection with the
23 transaction.

24 (2) The disclosing entity shall retain the request for disclosure
25 for three years.

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

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

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

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

3 **Sec. 305.** RCW 46.12.390 and 1990 c 232 s 3 are each amended to
4 read as follows:

5 (1) The department may review the activities of a person who
6 receives vehicle record information to ensure compliance with the
7 limitations imposed on the use of the information. The department
8 shall suspend or revoke for up to five years the privilege of obtaining
9 vehicle record information of a person found to be in violation of
10 chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103
11 of this act), this chapter, or a disclosure agreement executed with the
12 department.

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

14 (a) The unauthorized disclosure of information from a department
15 vehicle record; or

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

18 (c) The use of information obtained from the department vehicle
19 records for a purpose other than what is stated in the request for
20 information or in the disclosure agreement executed with the
21 department; or

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

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

28 **Sec. 306.** RCW 46.20.041 and 1999 c 274 s 12 are each amended to
29 read as follows:

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

35 (a) The department shall permit the person to demonstrate

1 personally that notwithstanding the disability or disease he or she is
2 able to safely drive a motor vehicle.

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

6 (i) The statement is for the confidential use of the director and
7 the chief of the Washington state patrol and for other public officials
8 designated by law. It is exempt from public inspection and copying
9 notwithstanding chapter ((42.17 RCW)) 42.-- RCW (the new chapter
10 created in section 103 of this act).

11 (ii) The statement may not be offered as evidence in any court
12 except when appeal is taken from the order of the director canceling or
13 withholding a person's driving privilege. However, the department may
14 make the statement available to the director of the department of
15 retirement systems for use in determining eligibility for or
16 continuance of disability benefits and it may be offered and admitted
17 as evidence in any administrative proceeding or court action concerning
18 the disability benefits.

19 (2) On the basis of the evaluation the department may:

20 (a) Issue or renew a driver's license to the person without
21 restrictions;

22 (b) Cancel or withhold the driving privilege from the person; or

23 (c) Issue a restricted driver's license to the person. The
24 restrictions must be suitable to the licensee's driving ability. The
25 restrictions may include:

26 (i) Special mechanical control devices on the motor vehicle
27 operated by the licensee;

28 (ii) Limitations on the type of motor vehicle that the licensee may
29 operate; or

30 (iii) Other restrictions determined by the department to be
31 appropriate to assure the licensee's safe operation of a motor vehicle.

32 (3) The department may either issue a special restricted license or
33 may set forth the restrictions upon the usual license form.

34 (4) The department may suspend or revoke a restricted license upon
35 receiving satisfactory evidence of any violation of the restrictions.
36 In that event the licensee is entitled to a driver improvement
37 interview and a hearing as provided by RCW 46.20.322 or 46.20.328.

1 (5) Operating a motor vehicle in violation of the restrictions
2 imposed in a restricted license is a traffic infraction.

3 **Sec. 307.** RCW 46.20.118 and 1990 c 250 s 37 are each amended to
4 read as follows:

5 The department shall maintain a negative file. It shall contain
6 negatives of all pictures taken by the department of licensing as
7 authorized by RCW 46.20.070 through 46.20.119. Negatives in the file
8 shall not be available for public inspection and copying under chapter
9 (~~42.17 RCW~~) 42.-- RCW (the new chapter created in section 103 of this
10 act). The department may make the file available to official
11 governmental enforcement agencies to assist in the investigation by the
12 agencies of suspected criminal activity. The department may also
13 provide a print to the driver's next of kin in the event the driver is
14 deceased.

15 **Sec. 308.** RCW 47.64.220 and 1999 c 256 s 1 are each amended to
16 read as follows:

17 (1) Prior to collective bargaining, the marine employees'
18 commission shall conduct a salary survey. The results of the survey
19 shall be published in a report which shall be a public document
20 comparing wages, hours, employee benefits, and conditions of employment
21 of involved ferry employees with those of public and private sector
22 employees in states along the west coast of the United States,
23 including Alaska, and in British Columbia doing directly comparable but
24 not necessarily identical work, giving consideration to factors
25 peculiar to the area and the classifications involved. Such survey
26 report shall be for the purpose of disclosing generally prevailing
27 levels of compensation, benefits, and conditions of employment. It
28 shall be used to guide generally but not to define or limit collective
29 bargaining between the parties. The commission shall make such other
30 findings of fact as the parties may request during bargaining or
31 impasse.

32 (2) Except as provided in subsection (3) of this section, salary
33 and employee benefit information collected from private employers that
34 identifies a specific employer with the salary and employee benefit
35 rates which that employer pays to its employees is not subject to

1 public disclosure under chapter ((42.17 RCW)) 42.-- RCW (the new
2 chapter created in section 103 of this act).

3 (3) A person or entity, having reason to believe that the salary
4 survey results are inaccurate, may submit a petition to the state
5 auditor requesting an audit of the data upon which the salary survey
6 results are based. The state auditor shall review and analyze all data
7 collected for the salary survey, including proprietary information, but
8 is prohibited from disclosing the salary survey data to any other
9 person or entity, except by court order.

10 **Sec. 309.** RCW 48.02.065 and 2001 c 57 s 1 are each amended to read
11 as follows:

12 (1) Documents, materials, or other information as described in
13 subsection (5) of this section are confidential by law and privileged,
14 are not subject to public disclosure under chapter ((42.17 RCW)) 42.--
15 RCW (the new chapter created in section 103 of this act), and are not
16 subject to subpoena directed to the commissioner or any person who
17 received documents, materials, or other information while acting under
18 the authority of the commissioner. The commissioner is authorized to
19 use such documents, materials, or other information in the furtherance
20 of any regulatory or legal action brought as a part of the
21 commissioner's official duties. The confidentiality and privilege
22 created by this section and ((RCW 42.17.31916)) section 420(9) of this
23 act applies only to the commissioner, any person acting under the
24 authority of the commissioner, the national association of insurance
25 commissioners and its affiliates and subsidiaries, regulatory and law
26 enforcement officials of other states and nations, the federal
27 government, and international authorities.

28 (2) Neither the commissioner nor any person who received documents,
29 materials, or other information while acting under the authority of the
30 commissioner is permitted or required to testify in any private civil
31 action concerning any confidential and privileged documents, materials,
32 or information subject to subsection (1) of this section.

33 (3) The commissioner:

34 (a) May share documents, materials, or other information, including
35 the confidential and privileged documents, materials, or information
36 subject to subsection (1) of this section, with (i) the national
37 association of insurance commissioners and its affiliates and

1 subsidiaries, and (ii) regulatory and law enforcement officials of
2 other states and nations, the federal government, and international
3 authorities, if the recipient agrees to maintain the confidentiality
4 and privileged status of the document, material, or other information;

5 (b) May receive documents, materials, or information, including
6 otherwise either confidential or privileged, or both, documents,
7 materials, or information, from (i) the national association of
8 insurance commissioners and its affiliates and subsidiaries, and (ii)
9 regulatory and law enforcement officials of other states and nations,
10 the federal government, and international authorities and shall
11 maintain as confidential and privileged any document, material, or
12 information received that is either confidential or privileged, or
13 both, under the laws of the jurisdiction that is the source of the
14 document, material, or information; and

15 (c) May enter into agreements governing the sharing and use of
16 information consistent with this subsection.

17 (4) No waiver of an existing privilege or claim of confidentiality
18 in the documents, materials, or information may occur as a result of
19 disclosure to the commissioner under this section or as a result of
20 sharing as authorized in subsection (3) of this section.

21 (5) Documents, materials, or information, which is either
22 confidential or privileged, or both, which has been provided to the
23 commissioner by (a) the national association of insurance commissioners
24 and its affiliates and subsidiaries, (b) regulatory or law enforcement
25 officials of other states and nations, the federal government, or
26 international authorities, or (c) agencies of this state, is
27 confidential and privileged only if the documents, materials, or
28 information is protected from disclosure by the applicable laws of the
29 jurisdiction that is the source of the document, material, or
30 information.

31 **Sec. 310.** RCW 48.20.530 and 1991 c 87 s 7 are each amended to read
32 as follows:

33 For the purposes of this chapter, a nonresident pharmacy is defined
34 as any pharmacy located outside this state that ships, mails, or
35 delivers, in any manner, except when delivered in person to an enrolled
36 participant or his/her representative, controlled substances, legend
37 drugs, or devices into this state.

1 After October 1, 1991, an insurer providing coverage of
2 prescription drugs from nonresident pharmacies may only provide
3 coverage from licensed nonresident pharmacies. The insurers shall
4 obtain proof of current licensure in conformity with this section and
5 RCW 18.64.350 through 18.64.400 from the nonresident pharmacy and keep
6 that proof of licensure on file.

7 The department of health may request from the insurer the proof of
8 current licensure for all nonresident pharmacies through which the
9 insurer is providing coverage for prescription drugs to residents of
10 the state of Washington. This information, which may constitute a full
11 or partial customer list, shall be confidential and exempt from public
12 disclosure, and from the requirements of chapter ((42.17-RCW)) 42.--
13 RCW (the new chapter created in section 103 of this act). The board or
14 the department shall not be restricted in the disclosure of the name of
15 a nonresident pharmacy that is or has been licensed under RCW 18.64.360
16 or 18.64.370 or of the identity of a nonresident pharmacy disciplined
17 under RCW 18.64.350 through 18.64.400.

18 **Sec. 311.** RCW 48.21.330 and 1991 c 87 s 8 are each amended to read
19 as follows:

20 For the purposes of this chapter, a nonresident pharmacy is defined
21 as any pharmacy located outside this state that ships, mails, or
22 delivers, in any manner, except when delivered in person to an enrolled
23 participant or his/her representative, controlled substances, legend
24 drugs, or devices into this state.

25 After October 1, 1991, an insurer providing coverage of
26 prescription drugs from nonresident pharmacies may only provide
27 coverage from licensed nonresident pharmacies. The insurers shall
28 obtain proof of current licensure in conformity with this section and
29 RCW 18.64.350 through 18.64.400 from the nonresident pharmacy and keep
30 that proof of licensure on file.

31 The department may request from the insurer the proof of current
32 licensure for all nonresident pharmacies through which the insurer is
33 providing coverage for prescription drugs for residents of the state of
34 Washington. This information, which may constitute a full or partial
35 customer list, shall be confidential and exempt from public disclosure,
36 and from the requirements of chapter ((42.17-RCW)) 42.-- RCW (the new
37 chapter created in section 103 of this act). The board or the

1 department shall not be restricted in the disclosure of the name of a
2 nonresident pharmacy that is or has been licensed under RCW 18.64.360
3 or 18.64.370 or of the identity of a nonresident pharmacy disciplined
4 under RCW 18.64.350 through 18.64.400.

5 **Sec. 312.** RCW 48.30A.060 and 1995 c 285 s 12 are each amended to
6 read as follows:

7 Each insurer shall annually provide to the insurance commissioner
8 a summary report on actions taken under its antifraud plan to prevent
9 and combat insurance fraud. The report must also include, but not be
10 limited to, measures taken to protect and ensure the integrity of
11 electronic data processing-generated data and manually compiled data,
12 statistical data on the amount of resources committed to combatting
13 fraud, and the amount of fraud identified and recovered during the
14 reporting period. The antifraud plans and summary of the insurer's
15 antifraud activities are not public records and are exempt from chapter
16 (~~42.17 RCW~~) 42.-- RCW (the new chapter created in section 103 of this
17 act), are proprietary, are not subject to public examination, and are
18 not discoverable or admissible in civil litigation.

19 **Sec. 313.** RCW 48.32A.185 and 2001 c 50 s 19 are each amended to
20 read as follows:

21 (1) No person, including an insurer, agent, or affiliate of an
22 insurer may make, publish, disseminate, circulate, or place before the
23 public, or cause directly or indirectly, to be made, published,
24 disseminated, circulated, or placed before the public, in any
25 newspaper, magazine, or other publication, or in the form of a notice,
26 circular, pamphlet, letter, or poster, or over any radio station or
27 television station, or in any other way, any advertisement,
28 announcement, or statement, written or oral, which uses the existence
29 of the insurance guaranty association of this state for the purpose of
30 sales, solicitation, or inducement to purchase any form of insurance
31 covered by the Washington life and disability insurance guaranty
32 association act. However, this section does not apply to the
33 Washington life and disability insurance guaranty association or any
34 other entity which does not sell or solicit insurance.

35 (2) Within one hundred eighty days after July 22, 2001, the
36 association shall prepare a summary document describing the general

1 purposes and current limitations of this chapter and complying with
2 subsection (3) of this section. This document must be submitted to the
3 commissioner for approval. The document must also be available upon
4 request by a policy owner. The distribution, delivery, contents, or
5 interpretation of this document does not guarantee that either the
6 policy or the contract or the owner of the policy or contract is
7 covered in the event of the impairment or insolvency of a member
8 insurer. The description document must be revised by the association
9 as amendments to this chapter may require. Failure to receive this
10 document does not give the policy owner, contract owner, certificate
11 holder, or insured any greater rights than those stated in this
12 chapter.

13 (3) The document prepared under subsection (2) of this section must
14 contain a clear and conspicuous disclaimer on its face. The
15 commissioner shall establish the form and content of the disclaimer.
16 The disclaimer must:

17 (a) State the name and address of the life and disability insurance
18 guaranty association and insurance department;

19 (b) Prominently warn the policy or contract owner that the life and
20 disability insurance guaranty association may not cover the policy or,
21 if coverage is available, it is subject to substantial limitations and
22 exclusions and conditioned on continued residence in this state;

23 (c) State the types of policies for which guaranty funds provide
24 coverage;

25 (d) State that the insurer and its agents are prohibited by law
26 from using the existence of the life and disability insurance guaranty
27 association for the purpose of sales, solicitation, or inducement to
28 purchase any form of insurance;

29 (e) State that the policy or contract owner should not rely on
30 coverage under the life and disability insurance guaranty association
31 when selecting an insurer;

32 (f) Explain rights available and procedures for filing a complaint
33 to allege a violation of any provisions of this chapter; and

34 (g) Provide other information as directed by the commissioner
35 including but not limited to, sources for information about the
36 financial condition of insurers provided that the information is not
37 proprietary and is subject to disclosure under chapter (~~42.17 RCW~~)
38 42.-- RCW (the new chapter created in section 103 of this act).

1 (4) A member insurer must retain evidence of compliance with
2 subsection (2) of this section for as long as the policy or contract
3 for which the notice is given remains in effect.

4 **Sec. 314.** RCW 48.44.470 and 1991 c 87 s 9 are each amended to read
5 as follows:

6 For the purposes of this chapter, a nonresident pharmacy is defined
7 as any pharmacy located outside this state that ships, mails, or
8 delivers, in any manner, except when delivered in person to an enrolled
9 participant or his/her representative, controlled substances, legend
10 drugs, or devices into this state.

11 After October 1, 1991, a health care service contractor providing
12 coverage of prescription drugs from nonresident pharmacies may only
13 provide coverage from licensed nonresident pharmacies. The health care
14 service contractors shall obtain proof of current licensure in
15 conformity with this section and RCW 18.64.350 through 18.64.400 from
16 the nonresident pharmacy and keep that proof of licensure on file.

17 The department may request from the health care service contractor
18 the proof of current licensure for all nonresident pharmacies through
19 which the insurer is providing coverage for prescription drugs for
20 residents of the state of Washington. This information, which may
21 constitute a full or partial customer list, shall be confidential and
22 exempt from public disclosure, and from the requirements of chapter
23 (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103 of this
24 act). The board or the department shall not be restricted in the
25 disclosure of the name of a nonresident pharmacy that is or has been
26 licensed under RCW 18.64.360 or 18.64.370 or of the identity of a
27 nonresident pharmacy disciplined under RCW 18.64.350 through 18.64.400.

28 **Sec. 315.** RCW 48.46.540 and 1991 c 87 s 10 are each amended to
29 read 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, a health maintenance organization providing
36 coverage of prescription drugs from nonresident pharmacies may only

1 provide coverage from licensed nonresident pharmacies. The health
2 maintenance organizations shall obtain proof of current licensure in
3 conformity with this section and RCW 18.64.350 through 18.64.400 from
4 the nonresident pharmacy and keep that proof of licensure on file.

5 The department may request from the health maintenance organization
6 the proof of current licensure for all nonresident pharmacies through
7 which the insurer is providing coverage for prescription drugs for
8 residents of the state of Washington. This information, which may
9 constitute a full or partial customer list, shall be confidential and
10 exempt from public disclosure, and from the requirements of chapter
11 (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103 of this
12 act). The board or the department shall not be restricted in the
13 disclosure of the name of a nonresident pharmacy that is or has been
14 licensed under RCW 18.64.360 or 18.64.370 or of the identity of a
15 nonresident pharmacy disciplined under RCW 18.64.350 through 18.64.400.

16 **Sec. 316.** RCW 48.62.101 and 1991 sp.s. c 30 s 10 are each amended
17 to read as follows:

18 (1) All self-insurance programs governed by this chapter may
19 provide for executive sessions in accordance with chapter 42.30 RCW to
20 consider litigation and settlement of claims when it appears that
21 public discussion of these matters would impair the program's ability
22 to conduct its business effectively.

23 (2) Notwithstanding any provision to the contrary contained in the
24 public (~~(disclosure)~~) records act, chapter (~~(42.17 RCW)~~) 42.-- RCW (the
25 new chapter created in section 103 of this act), in a claim or action
26 against the state or a local government entity, no person is entitled
27 to discover that portion of any funds or liability reserve established
28 for purposes of satisfying a claim or cause of action, except that the
29 reserve is discoverable in a supplemental or ancillary proceeding to
30 enforce a judgment. All other records of individual or joint self-
31 insurance programs are subject to disclosure in accordance with chapter
32 (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103 of this
33 act).

34 (3) In accordance with chapter (~~(42.17 RCW)~~) 42.-- RCW (the new
35 chapter created in section 103 of this act), bargaining groups
36 representing local government employees shall have reasonable access to

1 information concerning the experience and performance of any health and
2 welfare benefits program established for the benefit of such employees.

3 **Sec. 317.** RCW 48.94.010 and 1993 c 462 s 24 are each amended to
4 read as follows:

5 (1) No person, firm, association, or corporation may act as a
6 reinsurance intermediary-broker in this state if the person, firm,
7 association, or corporation maintains an office either directly or as
8 a member or employee of a firm or association, or an officer, director,
9 or employee of a corporation:

10 (a) In this state, unless the person, firm, association, or
11 corporation is a licensed reinsurance intermediary-broker in this
12 state; or

13 (b) In another state, unless the person, firm, association, or
14 corporation is a licensed reinsurance intermediary-broker in this state
15 or another state having a regulatory scheme substantially similar to
16 this chapter.

17 (2) No person, firm, association, or corporation may act as a
18 reinsurance intermediary-manager:

19 (a) For a reinsurer domiciled in this state, unless the person,
20 firm, association, or corporation is a licensed reinsurance
21 intermediary-manager in this state;

22 (b) In this state, if the person, firm, association, or corporation
23 maintains an office either directly or as a member or employee of a
24 firm or association, or an officer, director, or employee of a
25 corporation in this state, unless the person, firm, association, or
26 corporation is a licensed reinsurance intermediary-manager in this
27 state;

28 (c) In another state for a nondomestic reinsurer, unless the
29 person, firm, association, or corporation is a licensed reinsurance
30 intermediary-manager in this state or another state having a
31 substantially similar regulatory scheme.

32 (3) The commissioner may require a reinsurance intermediary-manager
33 subject to subsection (2) of this section to:

34 (a) File a bond in an amount and from an insurer acceptable to the
35 commissioner for the protection of the reinsurer; and

36 (b) Maintain an errors and omissions policy in an amount acceptable
37 to the commissioner.

1 (4)(a) The commissioner may issue a reinsurance intermediary
2 license to a person, firm, association, or corporation who has complied
3 with the requirements of this chapter. Any such license issued to a
4 firm or association authorizes all the members of the firm or
5 association and any designated employees to act as reinsurance
6 intermediaries under the license, and all such persons may be named in
7 the application and any supplements to it. Any such license issued to
8 a corporation authorizes all of the officers, and any designated
9 employees and directors of it, to act as reinsurance intermediaries on
10 behalf of the corporation, and all such persons must be named in the
11 application and any supplements to it.

12 (b) If the applicant for a reinsurance intermediary license is a
13 nonresident, the applicant, as a condition precedent to receiving or
14 holding a license, shall designate the commissioner as agent for
15 service of process in the manner, and with the same legal effect,
16 provided for by this title for designation of service of process upon
17 unauthorized insurers, and also shall furnish the commissioner with the
18 name and address of a resident of this state upon whom notices or
19 orders of the commissioner or process affecting the nonresident
20 reinsurance intermediary may be served. The licensee shall promptly
21 notify the commissioner in writing of every change in its designated
22 agent for service of process, but the change does not become effective
23 until acknowledged by the commissioner.

24 (5) The commissioner may refuse to issue a reinsurance intermediary
25 license if, in his or her judgment, the applicant, anyone named on the
26 application, or a member, principal, officer, or director of the
27 applicant, is not trustworthy, or that a controlling person of the
28 applicant is not trustworthy to act as a reinsurance intermediary, or
29 that any of the foregoing has given cause for revocation or suspension
30 of the license, or has failed to comply with a prerequisite for the
31 issuance of such license. Upon written request, the commissioner will
32 furnish a summary of the basis for refusal to issue a license, which
33 document is privileged and not subject to chapter ((42.17 RCW)) 42.--
34 RCW (the new chapter created in section 103 of this act).

35 (6) Licensed attorneys at law of this state when acting in their
36 professional capacity as such are exempt from this section.

1 **Sec. 318.** RCW 48.104.050 and 1999 c 8 s 5 are each amended to read
2 as follows:

3 (1) To facilitate the work of the Holocaust survivor assistance
4 office, the insurance commissioner may establish and maintain a central
5 registry containing records and information relating to insurance
6 policies, as described in RCW 48.104.060, of victims, living and
7 deceased, of the Holocaust. The registry shall be known as the
8 Holocaust insurance company registry. The insurance commissioner shall
9 establish standards and procedures to make the information in the
10 registry available to the public to the extent necessary and
11 appropriate to determine the existence of insurance policies and to
12 identify beneficiaries, successors in interest, or other persons
13 entitled to the proceeds of such policies, and to enable such persons
14 to claim proceeds to which they may be entitled, while protecting the
15 privacy of policyholders, their survivors, and their family members.
16 All information received by the Holocaust insurance company registry or
17 Holocaust survivor assistance office from any insurer, related company,
18 or foreign government or regulator shall be considered and deemed to be
19 matters and information relating to an examination and part of an
20 examination report that the insurance commissioner may treat as
21 confidential and withhold from public inspection under RCW
22 48.03.040(6)(c) and 48.03.050. To the extent necessary and appropriate
23 to secure access to documents and information located in or subject to
24 the jurisdiction of other states and countries, the insurance
25 commissioner is authorized to enter into agreements or to provide
26 assurances that any or all documents and information received from an
27 entity regulated by or subject to the laws of such other state or
28 country, or received from any agency of the government of any such
29 state or country, will be treated as confidential by the insurance
30 commissioner and will not be disclosed to any person except with the
31 approval of the appropriate authority of such state or country or
32 except as permitted or authorized by the laws of such state or country,
33 and any such agreement shall be binding and enforceable notwithstanding
34 chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103
35 of this act). To the extent necessary and appropriate to secure access
36 to documents and information from or in the possession of the
37 international commission as to which the international commission has
38 given assurances of confidentiality or privacy, the insurance

1 commissioner is authorized to enter into agreements or to provide
2 assurances that any or all such documents and information will be
3 treated as confidential by the insurance commissioner and will not be
4 disclosed to any person except with the approval of the international
5 commission or as permitted by any agreement or assurances given by the
6 international commission, and any such agreement shall be binding and
7 enforceable notwithstanding chapter ((42.17 RCW)) 42.-- RCW (the new
8 chapter created in section 103 of this act).

9 (2) The insurance commissioner may cooperate and exchange
10 information with other states establishing similar registries and with
11 the international commission, and may enter into agreements whereby a
12 single registry may be established on behalf of, and to provide
13 services to the citizens and residents of, several states.

14 **Sec. 319.** RCW 50.13.015 and 1989 c 92 s 3 are each amended to read
15 as follows:

16 (1) If information provided to the department by another
17 governmental agency is held private and confidential by state or
18 federal laws, the department may not release such information.

19 (2) Information provided to the department by another governmental
20 entity conditioned upon privacy and confidentiality is to be held
21 private and confidential according to the agreement between the
22 department and other governmental agency.

23 (3) The department may hold private and confidential information
24 obtained for statistical analysis, research, or study purposes if the
25 information was supplied voluntarily, conditioned upon maintaining
26 confidentiality of the information.

27 (4) Persons requesting disclosure of information held by the
28 department under subsection (1) or (2) of this section shall request
29 such disclosure from the agency providing the information to the
30 department rather than from the department.

31 (5) This section supersedes any provisions of chapter ((42.17 RCW))
32 42.-- RCW (the new chapter created in section 103 of this act) to the
33 contrary.

34 **Sec. 320.** RCW 50.13.030 and 1977 ex.s. c 153 s 3 are each amended
35 to read as follows:

36 The commissioner ((of the department of employment security)) shall

1 have the authority to adopt, amend, or rescind rules interpreting and
2 implementing the provisions of this chapter. In particular, these
3 rules shall specify the procedure to be followed to obtain information
4 or records to which the public has access under this chapter or chapter
5 (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in section 103 of this
6 act).

7 **Sec. 321.** RCW 50.13.040 and 1993 c 483 s 6 are each amended to
8 read as follows:

9 (1) An individual shall have access to all records and information
10 concerning that individual held by the (~~(department of)~~) employment
11 security department, unless the information is exempt from disclosure
12 under (~~(RCW 42.17.310)~~) section 421 of this act.

13 (2) An employing unit shall have access to its own records and to
14 any records and information relating to a benefit claim by an
15 individual if the employing unit is either the individual's last
16 employer or is the individual's base year employer.

17 (3) An employing unit shall have access to any records and
18 information relating to any decision to allow or deny benefits if:

19 (a) The decision is based on employment or an offer of employment
20 with the employing unit; or

21 (b) If the decision is based on material information provided by
22 the employing unit.

23 (4) An employing unit shall have access to general summaries of
24 benefit claims by individuals whose benefits are chargeable to the
25 employing unit's experience rating or reimbursement account.

26 **Sec. 322.** RCW 50.13.060 and 2003 c 165 s 3 are each amended to
27 read as follows:

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

33 (a) The agency submits an application in writing to the employment
34 security department for the records or information containing a
35 statement of the official purposes for which the information or records

1 are needed and specific identification of the records or information
2 sought from the department; and

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

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

21 (2) The requirements of subsections (1) and (9) of this section
22 shall not apply to the state legislative branch. The state legislature
23 shall have access to information or records deemed private and
24 confidential under this chapter, if the legislature or a legislative
25 committee finds that the information or records are necessary and for
26 official purposes. If the employment security department does not make
27 information or records available as provided in this subsection, the
28 legislature may exercise its authority granted by chapter 44.16 RCW.

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

37 (4) The requirements of subsection (1)(c) of this section shall not
38 apply to governmental agencies where the procedures would frustrate the

1 investigation of possible violations of criminal laws or to the release
2 of employing unit names, addresses, number of employees, and aggregate
3 employer wage data for the purpose of state governmental agencies
4 preparing small business economic impact statements under chapter 19.85
5 RCW or preparing cost-benefit analyses under RCW 34.05.328(1) (c) and
6 (d). Information provided by the department and held to be private and
7 confidential under state or federal laws must not be misused or
8 released to unauthorized parties. A person who misuses such
9 information or releases such information to unauthorized parties is
10 subject to the sanctions in RCW 50.13.080.

11 (5) Governmental agencies shall have access to certain records or
12 information, limited to such items as names, addresses, social security
13 numbers, and general information about benefit entitlement or employer
14 information possessed by the department, for comparison purposes with
15 records or information possessed by the requesting agency to detect
16 improper or fraudulent claims, or to determine potential tax liability
17 or employer compliance with registration and licensing requirements.
18 In those cases the governmental agency shall not be required to comply
19 with subsection (1)(c) of this section, but the requirements of the
20 remainder of subsection (1) of this section must be satisfied.

21 (6) Governmental agencies may have access to certain records and
22 information, limited to employer information possessed by the
23 department for purposes authorized in chapter 50.38 RCW. Access to
24 these records and information is limited to only those individuals
25 conducting authorized statistical analysis, research, and evaluation
26 studies. Only in cases consistent with the purposes of chapter 50.38
27 RCW are government agencies not required to comply with subsection
28 (1)(c) of this section, but the requirements of the remainder of
29 subsection (1) of this section must be satisfied. Information provided
30 by the department and held to be private and confidential under state
31 or federal laws shall not be misused or released to unauthorized
32 parties subject to the sanctions in RCW 50.13.080.

33 (7) Disclosure to governmental agencies of information or records
34 obtained by the employment security department from the federal
35 government shall be governed by any applicable federal law or any
36 agreement between the federal government and the employment security
37 department where so required by federal law. When federal law does not
38 apply to the records or information state law shall control.

1 (8) The department may provide information for purposes of
2 statistical analysis and evaluation of the WorkFirst program or any
3 successor state welfare program to the department of social and health
4 services, the office of financial management, and other governmental
5 entities with oversight or evaluation responsibilities for the program
6 in accordance with RCW 43.20A.080. The confidential information
7 provided by the department shall remain the property of the department
8 and may be used by the authorized requesting agencies only for
9 statistical analysis, research, and evaluation purposes as provided in
10 RCW 74.08A.410 and 74.08A.420. The department of social and health
11 services, the office of financial management, or other governmental
12 entities with oversight or evaluation responsibilities for the program
13 are not required to comply with subsection (1)(c) of this section, but
14 the requirements of the remainder of subsection (1) of this section and
15 applicable federal laws and regulations must be satisfied. The
16 confidential information used for evaluation and analysis of welfare
17 reform supplied to the authorized requesting entities with regard to
18 the WorkFirst program or any successor state welfare program are exempt
19 from public inspection and copying under ((RCW 42.17.310)) chapter
20 42.-- RCW (the new chapter created in section 103 of this act).

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

25 (10) In conducting periodic salary or fringe benefit studies
26 pursuant to law, the department of personnel shall have access to
27 records of the employment security department as may be required for
28 such studies. For such purposes, the requirements of subsection (1)(c)
29 of this section need not apply.

30 (11)(a) To promote the reemployment of job seekers, the
31 commissioner may enter into data-sharing contracts with partners of the
32 one-stop career development system. The contracts shall provide for
33 the transfer of data only to the extent that the transfer is necessary
34 for the efficient provisions of work force programs, including but not
35 limited to public labor exchange, unemployment insurance, worker
36 training and retraining, vocational rehabilitation, vocational
37 education, adult education, transition from public assistance, and

1 support services. The transfer of information under contracts with
2 one-stop partners is exempt from subsection (1)(c) of this section.

3 (b) An individual who applies for services from the department and
4 whose information will be shared under (a) of this subsection (11) must
5 be notified that his or her private and confidential information in the
6 department's records will be shared among the one-stop partners to
7 facilitate the delivery of one-stop services to the individual. The
8 notice must advise the individual that he or she may request that
9 private and confidential information not be shared among the one-stop
10 partners and the department must honor the request. In addition, the
11 notice must:

12 (i) Advise the individual that if he or she requests that private
13 and confidential information not be shared among one-stop partners, the
14 request will in no way affect eligibility for services;

15 (ii) Describe the nature of the information to be shared, the
16 general use of the information by one-stop partner representatives, and
17 among whom the information will be shared;

18 (iii) Inform the individual that shared information will be used
19 only for the purpose of delivering one-stop services and that further
20 disclosure of the information is prohibited under contract and is not
21 subject to disclosure under (~~RCW 42.17.310~~) chapter 42.-- RCW (the
22 new chapter created in section 103 of this act); and

23 (iv) Be provided in English and an alternative language selected by
24 the one-stop center or job service center as appropriate for the
25 community where the center is located.

26 If the notice is provided in-person, the individual who does not
27 want private and confidential information shared among the one-stop
28 partners must immediately advise the one-stop partner representative of
29 that decision. The notice must be provided to an individual who
30 applies for services telephonically, electronically, or by mail, in a
31 suitable format and within a reasonable time after applying for
32 services, which shall be no later than ten working days from the
33 department's receipt of the application for services. A one-stop
34 representative must be available to answer specific questions regarding
35 the nature, extent, and purpose for which the information may be
36 shared.

37 (12) To facilitate improved operation and evaluation of state
38 programs, the commissioner may enter into data-sharing contracts with

1 other state agencies only to the extent that such transfer is necessary
2 for the efficient operation or evaluation of outcomes for those
3 programs. The transfer of information by contract under this
4 subsection is exempt from subsection (1)(c) of this section.

5 (13) The misuse or unauthorized release of records or information
6 by any person or organization to which access is permitted by this
7 chapter subjects the person or organization to a civil penalty of five
8 thousand dollars and other applicable sanctions under state and federal
9 law. Suit to enforce this section shall be brought by the attorney
10 general and the amount of any penalties collected shall be paid into
11 the employment security department administrative contingency fund.
12 The attorney general may recover reasonable attorneys' fees for any
13 action brought to enforce this section.

14 **Sec. 323.** RCW 50.13.080 and 1996 c 79 s 2 are each amended to read
15 as follows:

16 (1) The employment security department shall have the right to
17 disclose information or records deemed private and confidential under
18 this chapter to any private person or organization when such disclosure
19 is necessary to permit private contracting parties to assist in the
20 operation and management of the department in instances where certain
21 departmental functions may be delegated to private parties to increase
22 the department's efficiency or quality of service to the public. The
23 private persons or organizations shall use the information or records
24 solely for the purpose for which the information was disclosed and
25 shall be bound by the same rules of privacy and confidentiality as
26 employment security department employees.

27 (2) Nothing in this section shall be construed as limiting or
28 restricting the effect of RCW 42.17.260(9) (as recodified by this act).

29 (3) The misuse or unauthorized release of records or information
30 deemed private and confidential under this chapter by any private
31 person or organization to which access is permitted by this section
32 shall subject the person or organization to a civil penalty of five
33 thousand dollars and other applicable sanctions under state and federal
34 law. Suit to enforce this section shall be brought by the attorney
35 general and the amount of any penalties collected shall be paid into
36 the employment security department administrative contingency fund.

1 The attorney general may recover reasonable attorneys' fees for any
2 action brought to enforce this section.

3 **Sec. 324.** RCW 50.38.060 and 1993 c 62 s 6 are each amended to read
4 as follows:

5 To implement this chapter, the department has authority to:

6 (1) Establish mechanisms to recover actual costs incurred in
7 producing and providing otherwise nonfunded labor market information.

8 (a) If the commissioner, in his or her discretion, determines that
9 providing labor market information is in the public interest, the
10 requested information may be provided at reduced costs.

11 (b) The department shall provide access to labor market information
12 products that constitute public records available for public inspection
13 and copying under chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter
14 created in section 103 of this act), at fees not exceeding those
15 allowed under RCW 42.17.300 (as recodified by this act) and consistent
16 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. 325.** 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 RCW)~~) 42.-- RCW
7 (the new chapter created in section 103 of this act).

8 **Sec. 326.** RCW 52.14.100 and 1984 c 230 s 37 are each amended to
9 read as follows:

10 All meetings of the board of fire commissioners shall be conducted
11 in accordance with chapter 42.30 RCW and a majority constitutes a
12 quorum for the transaction of business. All records of the board shall
13 be open to inspection in accordance with (~~(the provisions of RCW~~
14 ~~42.17.250 through 42.17.340)~~) chapter 42.-- RCW (the new chapter
15 created in section 103 of this act). The board has the power and duty
16 to adopt a seal of the district, to manage and conduct the business
17 affairs of the district, to make and execute all necessary contracts,
18 to employ any necessary services, and to adopt reasonable rules to
19 govern the district and to perform its functions, and generally to
20 perform all such acts as may be necessary to carry out the objects of
21 the creation of the district.

22 **Sec. 327.** RCW 66.28.180 and 2004 c 269 s 1 and 2004 c 160 s 18 are
23 each reenacted and amended to read as follows:

24 It is unlawful for a person, firm, or corporation holding a
25 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
26 distributor's license, a domestic brewery license, a microbrewery
27 license, a beer importer's license, a beer distributor's license, a
28 domestic winery license, a wine importer's license, or a wine
29 distributor's license within the state of Washington to modify any
30 prices without prior notification to and approval of the board.

31 (1) Intent. This section is enacted, pursuant to the authority of
32 this state under the twenty-first amendment to the United States
33 Constitution, to promote the public's interest in fostering the orderly
34 and responsible distribution of malt beverages and wine towards
35 effective control of consumption; to promote the fair and efficient
36 three-tier system of distribution of such beverages; and to confirm

1 existing board rules as the clear expression of state policy to
2 regulate the manner of selling and pricing of wine and malt beverages
3 by licensed suppliers and distributors.

4 (2) Beer and wine distributor price posting.

5 (a) Every beer or wine distributor shall file with the board at its
6 office in Olympia a price posting showing the wholesale prices at which
7 any and all brands of beer and wine sold by such beer and/or wine
8 distributor shall be sold to retailers within the state.

9 (b) Each price posting shall be made on a form prepared and
10 furnished by the board, or a reasonable facsimile thereof, and shall
11 set forth:

12 (i) All brands, types, packages, and containers of beer offered for
13 sale by such beer and/or wine distributor;

14 (ii) The wholesale prices thereof to retail licensees, including
15 allowances, if any, for returned empty containers.

16 (c) No beer and/or wine distributor may sell or offer to sell any
17 package or container of beer or wine to any retail licensee at a price
18 differing from the price for such package or container as shown in the
19 price posting filed by the beer and/or wine distributor and then in
20 effect, according to rules adopted by the board.

21 (d) Quantity discounts are prohibited. No price may be posted that
22 is below acquisition cost plus ten percent of acquisition cost.
23 However, the board is empowered to review periodically, as it may deem
24 appropriate, the amount of the percentage of acquisition cost as a
25 minimum mark-up over cost and to modify such percentage by rule of the
26 board, except such percentage shall be not less than ten percent.

27 (e) Distributor prices on a "close-out" item shall be accepted by
28 the board if the item to be discontinued has been listed on the state
29 market for a period of at least six months, and upon the further
30 condition that the distributor who posts such a close-out price shall
31 not restock the item for a period of one year following the first
32 effective date of such close-out price.

33 (f) The board may reject any price posting that it deems to be in
34 violation of this section or any rule, or portion thereof, or that
35 would tend to disrupt the orderly sale and distribution of beer and
36 wine. Whenever the board rejects any posting, the licensee submitting
37 the posting may be heard by the board and shall have the burden of
38 showing that the posting is not in violation of this section or a rule

1 or does not tend to disrupt the orderly sale and distribution of beer
2 and wine. If the posting is accepted, it shall become effective at the
3 time fixed by the board. If the posting is rejected, the last
4 effective posting shall remain in effect until such time as an amended
5 posting is filed and approved, in accordance with the provisions of
6 this section.

7 (g) Prior to the effective date of the posted prices, all price
8 postings filed as required by this section constitute investigative
9 information and shall not be subject to disclosure, pursuant to ((RCW
10 ~~42.17.310(1)(d))~~) section 404(1) of this act.

11 (h) Any beer and/or wine distributor or employee authorized by the
12 distributor-employer may sell beer and/or wine at the distributor's
13 posted prices to any annual or special occasion retail licensee upon
14 presentation to the distributor or employee at the time of purchase of
15 a special permit issued by the board to such licensee.

16 (i) Every annual or special occasion retail licensee, upon
17 purchasing any beer and/or wine from a distributor, shall immediately
18 cause such beer or wine to be delivered to the licensed premises, and
19 the licensee shall not thereafter permit such beer to be disposed of in
20 any manner except as authorized by the license.

21 (ii) Beer and wine sold as provided in this section shall be
22 delivered by the distributor or an authorized employee either to the
23 retailer's licensed premises or directly to the retailer at the
24 distributor's licensed premises. A distributor's prices to retail
25 licensees shall be the same at both such places of delivery.

26 (3) Beer and wine suppliers' price filings, contracts, and
27 memoranda.

28 (a) Every domestic brewery, microbrewery, and domestic winery
29 offering beer and/or wine for sale within the state shall file with the
30 board at its office in Olympia a copy of every written contract and a
31 memorandum of every oral agreement which such brewery or winery may
32 have with any beer or wine distributor, which contracts or memoranda
33 shall contain a schedule of prices charged to distributors for all
34 items and all terms of sale, including all regular and special
35 discounts; all advertising, sales and trade allowances, and incentive
36 programs; and all commissions, bonuses or gifts, and any and all other
37 discounts or allowances. Whenever changed or modified, such revised
38 contracts or memoranda shall forthwith be filed with the board as

1 provided for by rule. The provisions of this section also apply to
2 certificate of approval holders, beer and/or wine importers, and beer
3 and/or wine distributors who sell to other beer and/or wine
4 distributors.

5 Each price schedule shall be made on a form prepared and furnished
6 by the board, or a reasonable facsimile thereof, and shall set forth
7 all brands, types, packages, and containers of beer or wine offered for
8 sale by such licensed brewery or winery; all additional information
9 required may be filed as a supplement to the price schedule forms.

10 (b) Prices filed by a domestic brewery, microbrewery, domestic
11 winery, or certificate of approval holder shall be uniform prices to
12 all distributors on a statewide basis less bona fide allowances for
13 freight differentials. Quantity discounts are prohibited. No price
14 shall be filed that is below acquisition/production cost plus ten
15 percent of that cost, except that acquisition cost plus ten percent of
16 acquisition cost does not apply to sales of beer or wine between a beer
17 or wine importer who sells beer or wine to another beer or wine
18 importer or to a beer or wine distributor, or to a beer or wine
19 distributor who sells beer or wine to another beer or wine distributor.
20 However, the board is empowered to review periodically, as it may deem
21 appropriate, the amount of the percentage of acquisition/production
22 cost as a minimum mark-up over cost and to modify such percentage by
23 rule of the board, except such percentage shall be not less than ten
24 percent.

25 (c) No domestic brewery, microbrewery, domestic winery, certificate
26 of approval holder, beer or wine importer, or beer or wine distributor
27 may sell or offer to sell any beer or wine to any persons whatsoever in
28 this state until copies of such written contracts or memoranda of such
29 oral agreements are on file with the board.

30 (d) No domestic brewery, microbrewery, domestic winery, or
31 certificate of approval holder may sell or offer to sell any package or
32 container of beer or wine to any distributor at a price differing from
33 the price for such package or container as shown in the schedule of
34 prices filed by the domestic brewery, microbrewery, domestic winery, or
35 certificate of approval holder and then in effect, according to rules
36 adopted by the board.

37 (e) The board may reject any supplier's price filing, contract, or
38 memorandum of oral agreement, or portion thereof that it deems to be in

1 violation of this section or any rule or that would tend to disrupt the
2 orderly sale and distribution of beer or wine. Whenever the board
3 rejects any such price filing, contract, or memorandum, the licensee
4 submitting the price filing, contract, or memorandum may be heard by
5 the board and shall have the burden of showing that the price filing,
6 contract, or memorandum is not in violation of this section or a rule
7 or does not tend to disrupt the orderly sale and distribution of beer
8 or wine. If the price filing, contract, or memorandum is accepted, it
9 shall become effective at a time fixed by the board. If the price
10 filing, contract, or memorandum, or portion thereof, is rejected, the
11 last effective price filing, contract, or memorandum shall remain in
12 effect until such time as an amended price filing, contract, or
13 memorandum is filed and approved, in accordance with the provisions of
14 this section.

15 (f) Prior to the effective date of the posted prices, all prices,
16 contracts, and memoranda filed as required by this section constitute
17 investigative information and shall not be subject to disclosure,
18 pursuant to ((~~RCW 42.17.310(1)(d)~~)) section 404(1) of this act.

19 **Sec. 328.** RCW 69.41.044 and 1989 1st ex.s. c 9 s 406 are each
20 amended to read as follows:

21 All records, reports, and information obtained by the board or its
22 authorized representatives from or on behalf of a pharmaceutical
23 manufacturer, representative of a manufacturer, wholesaler, pharmacy,
24 or practitioner who purchases, dispenses, or distributes legend drugs
25 under this chapter are confidential and exempt from public inspection
26 and copying under chapter ((~~42.17 RCW~~)) 42.-- RCW (the new chapter
27 created in section 103 of this act). Nothing in this section restricts
28 the investigations or the proceedings of the board so long as the board
29 and its authorized representatives comply with the provisions of
30 chapter ((~~42.17 RCW~~)) 42.-- RCW (the new chapter created in section 103
31 of this act).

32 **Sec. 329.** RCW 69.41.280 and 1989 c 352 s 6 are each amended to
33 read as follows:

34 All records, reports, and information obtained by the board or its
35 authorized representatives from or on behalf of a pharmaceutical
36 manufacturer, representative of a manufacturer, wholesaler, pharmacy,

1 or practitioner who purchases, dispenses, or distributes legend drugs
2 under this chapter are confidential and exempt from public inspection
3 and copying under chapter ((42.17 RCW)) 42.-- RCW (the new chapter
4 created in section 103 of this act). Nothing in this section restricts
5 the investigations or the proceedings of the board so long as the board
6 and its authorized representatives comply with the provisions of
7 chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103
8 of this act).

9 **Sec. 330.** RCW 69.45.090 and 1987 c 411 s 9 are each amended to
10 read as follows:

11 All records, reports, and information obtained by the board from or
12 on behalf of a manufacturer or manufacturer's representative under this
13 chapter are confidential and exempt from public inspection and copying
14 under chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in
15 section 103 of this act). This section does not apply to public
16 disclosure of the identity of persons found by the board to have
17 violated state or federal law, rules, or regulations. This section is
18 not intended to restrict the investigations and proceedings of the
19 board so long as the board maintains the confidentiality required by
20 this section.

21 **Sec. 331.** RCW 70.02.090 and 1991 c 335 s 302 are each amended to
22 read as follows:

23 (1) Subject to any conflicting requirement in the public
24 ((disclosure)) records act, chapter ((42.17 RCW)) 42.-- RCW (the new
25 chapter created in section 103 of this act), a health care provider may
26 deny access to health care information by a patient if the health care
27 provider reasonably concludes that:

28 (a) Knowledge of the health care information would be injurious to
29 the health of the patient;

30 (b) Knowledge of the health care information could reasonably be
31 expected to lead to the patient's identification of an individual who
32 provided the information in confidence and under circumstances in which
33 confidentiality was appropriate;

34 (c) Knowledge of the health care information could reasonably be
35 expected to cause danger to the life or safety of any individual;

1 (d) The health care information was compiled and is used solely for
2 litigation, quality assurance, peer review, or administrative purposes;
3 or

4 (e) Access to the health care information is otherwise prohibited
5 by law.

6 (2) If a health care provider denies a request for examination and
7 copying under this section, the provider, to the extent possible, shall
8 segregate health care information for which access has been denied
9 under subsection (1) of this section from information for which access
10 cannot be denied and permit the patient to examine or copy the
11 disclosable information.

12 (3) If a health care provider denies a patient's request for
13 examination and copying, in whole or in part, under subsection (1)(a)
14 or (c) of this section, the provider shall permit examination and
15 copying of the record by another health care provider, selected by the
16 patient, who is licensed, certified, registered, or otherwise
17 authorized under the laws of this state to treat the patient for the
18 same condition as the health care provider denying the request. The
19 health care provider denying the request shall inform the patient of
20 the patient's right to select another health care provider under this
21 subsection. The patient shall be responsible for arranging for
22 compensation of the other health care provider so selected.

23 **Sec. 332.** RCW 70.38.095 and 1979 ex.s. c 161 s 9 are each amended
24 to read as follows:

25 Public accessibility to records shall be accorded by health systems
26 agencies pursuant to Public Law 93-641 and ((~~RCW 42.17.250 through~~
27 ~~42.17.340~~)) chapter 42.-- RCW (the new chapter created in section 103
28 of this act). A health systems agency shall be considered a "public
29 agency" for the sole purpose of complying with the ((~~"Open Public~~
30 ~~Meetings Act of 1971"~~)) public records act, chapter ((~~42.30~~ RCW)) 42.--
31 RCW (the new chapter created in section 103 of this act).

32 **Sec. 333.** RCW 70.41.150 and 2000 c 6 s 1 are each amended to read
33 as follows:

34 Information received by the department through filed reports,
35 inspection, or as otherwise authorized under this chapter, may be

1 disclosed publicly, as permitted under chapter (~~42.17 RCW~~) 42.-- RCW
2 (the new chapter created in section 103 of this act), subject to the
3 following provisions:

4 (1) Licensing inspections, or complaint investigations regardless
5 of findings, shall, as requested, be disclosed no sooner than three
6 business days after the hospital has received the resulting assessment
7 report;

8 (2) Information regarding administrative action against the license
9 shall, as requested, be disclosed after the hospital has received the
10 documents initiating the administrative action;

11 (3) Information about complaints that did not warrant an
12 investigation shall not be disclosed except to notify the hospital and
13 the complainant that the complaint did not warrant an investigation.
14 If requested, the individual complainant shall receive information on
15 other like complaints that have been reported against the hospital; and

16 (4) Information disclosed pursuant to this section shall not
17 disclose individual names.

18 **Sec. 334.** RCW 70.44.315 and 1997 c 332 s 18 are each amended to
19 read as follows:

20 (1) When evaluating a potential acquisition, the commissioners
21 shall determine their compliance with the following requirements:

22 (a) That the acquisition is authorized under chapter 70.44 RCW and
23 other laws governing public hospital districts;

24 (b) That the procedures used in the decision-making process allowed
25 district officials to thoroughly fulfill their due diligence
26 responsibilities as municipal officers, including those covered under
27 chapter 42.23 RCW governing conflicts of interest and chapter 42.20 RCW
28 prohibiting malfeasance of public officials;

29 (c) That the acquisition will not result in the revocation of
30 hospital privileges;

31 (d) That sufficient safeguards are included to maintain appropriate
32 capacity for health science research and health care provider
33 education;

34 (e) That the acquisition is allowed under Article VIII, section 7
35 of the state Constitution, which prohibits gifts of public funds or
36 lending of credit and Article XI, section 14, prohibiting private use
37 of public funds;

1 (f) That the public hospital district will retain control over
2 district functions as required under chapter 70.44 RCW and other laws
3 governing hospital districts;

4 (g) That the activities related to the acquisition process complied
5 with chapters (~~(42.17)~~) 42.-- (the new chapter created in section 103
6 of this act) and 42.32 RCW, governing disclosure of public records, and
7 chapter 42.30 RCW, governing public meetings;

8 (h) That the acquisition complies with the requirements of RCW
9 70.44.300 relating to fair market value; and

10 (i) Other state laws affecting the proposed acquisition.

11 (2) The commissioners shall also determine whether the public
12 hospital district should retain a right of first refusal to repurchase
13 the assets by the public hospital district if the hospital is
14 subsequently sold to, acquired by, or merged with another entity.

15 (3)(a) Prior to approving the acquisition of a district hospital,
16 the board of commissioners of the hospital district shall obtain a
17 written opinion from a qualified independent expert or the Washington
18 state department of health as to whether or not the acquisition meets
19 the standards set forth in RCW 70.45.080.

20 (b) Upon request, the hospital district and the person seeking to
21 acquire its hospital shall provide the department or independent expert
22 with any needed information and documents. The department shall charge
23 the hospital district for any costs the department incurs in preparing
24 an opinion under this section. The hospital district may recover from
25 the acquiring person any costs it incurs in obtaining the opinion from
26 either the department or the independent expert. The opinion shall be
27 delivered to the board of commissioners no later than ninety days after
28 it is requested.

29 (c) Within ten working days after it receives the opinion, the
30 board of commissioners shall publish notice of the opinion in at least
31 one newspaper of general circulation within the hospital district,
32 stating how a person may obtain a copy, and giving the time and
33 location of the hearing required under (d) of this subsection. It
34 shall make a copy of the report and the opinion available to anyone
35 upon request.

36 (d) Within thirty days after it received the opinion, the board of
37 commissioners shall hold a public hearing regarding the proposed

1 acquisition. The board of commissioners may vote to approve the
2 acquisition no sooner than thirty days following the public hearing.

3 (4)(a) For purposes of this section, "acquisition" means an
4 acquisition by a person of any interest in a hospital owned by a public
5 hospital district, whether by purchase, merger, lease, or otherwise,
6 that results in a change of ownership or control of twenty percent or
7 more of the assets of a hospital currently licensed and operating under
8 RCW 70.41.090. Acquisition does not include an acquisition where the
9 other party or parties to the acquisition are nonprofit corporations
10 having a substantially similar charitable health care purpose,
11 organizations exempt from federal income tax under section 501(c)(3) of
12 the internal revenue code, or governmental entities. Acquisition does
13 not include an acquisition where the other party is an organization
14 that is a limited liability corporation, a partnership, or any other
15 legal entity and the members, partners, or otherwise designated
16 controlling parties of the organization are all nonprofit corporations
17 having a charitable health care purpose, organizations exempt from
18 federal income tax under section 501(c)(3) of the internal revenue
19 code, or governmental entities. Acquisition does not include
20 activities between two or more governmental organizations, including
21 organizations acting pursuant to chapter 39.34 RCW, regardless of the
22 type of organizational structure used by the governmental entities.

23 (b) For purposes of this subsection (4), "person" means an
24 individual, a trust or estate, a partnership, a corporation including
25 associations, a limited liability company, a joint stock company, or an
26 insurance company.

27 **Sec. 335.** RCW 70.45.030 and 1997 c 332 s 3 are each amended to
28 read as follows:

29 (1) A person may not engage in the acquisition of a nonprofit
30 hospital without first having applied for and received the approval of
31 the department under this chapter.

32 (2) An application must be submitted to the department on forms
33 provided by the department, and at a minimum must include: The name of
34 the hospital being acquired, the name of the acquiring person or other
35 parties to the acquisition, the acquisition price, a copy of the
36 acquisition agreement, a financial and economic analysis and report
37 from an independent expert or consultant of the effect of the

1 acquisition under the criteria in RCW 70.45.070, and all other related
2 documents. The applications and all related documents are considered
3 public records for purposes of chapter ((42.17 RCW)) 42.-- RCW (the new
4 chapter created in section 103 of this act).

5 (3) The department shall charge an applicant fees sufficient to
6 cover the costs of implementing this chapter. The fees must include
7 the cost of the attorney general's opinion under RCW 70.45.060. The
8 department shall transfer this portion of the fee, upon receipt, to the
9 attorney general.

10 **Sec. 336.** RCW 70.47.150 and 1990 c 54 s 1 are each amended to read
11 as follows:

12 Notwithstanding the provisions of chapter ((42.17 RCW)) 42.-- RCW
13 (the new chapter created in section 103 of this act), (1) records
14 obtained, reviewed by, or on file with the plan containing information
15 concerning medical treatment of individuals shall be exempt from public
16 inspection and copying; and (2) actuarial formulas, statistics, and
17 assumptions submitted in support of a rate filing by a managed health
18 care system or submitted to the administrator upon his or her request
19 shall be exempt from public inspection and copying in order to preserve
20 trade secrets or prevent unfair competition.

21 **Sec. 337.** RCW 70.77.455 and 1997 c 182 s 23 are each amended to
22 read as follows:

23 (1) All licensees shall maintain and make available to the chief of
24 the Washington state patrol, through the director of fire protection,
25 full and complete records showing all production, imports, exports,
26 purchases, and sales of fireworks items by class.

27 (2) All records obtained and all reports produced, as required by
28 this chapter, are not subject to disclosure through the public
29 ((disclosure)) records act under chapter ((42.17 RCW)) 42.-- RCW (the
30 new chapter created in section 103 of this act).

31 **Sec. 338.** RCW 70.95C.220 and 1990 c 114 s 8 are each amended to
32 read as follows:

33 (1) The department may review a plan, executive summary, or an
34 annual progress report to determine whether the plan, executive
35 summary, or annual progress report is adequate pursuant to the rules

1 developed under this section and with the provisions of RCW 70.95C.200.
2 In determining the adequacy of any plan, executive summary, or annual
3 progress report, the department shall base its determination solely on
4 whether the plan, executive summary, or annual progress report is
5 complete and prepared in accordance with the provisions of RCW
6 70.95C.200.

7 (2) Plans developed under RCW 70.95C.200 shall be retained at the
8 facility of the hazardous substance user or hazardous waste generator
9 preparing a plan. The plan is not a public record under the public
10 (~~disclosure laws of the state of Washington contained in~~) records
11 act, chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter created in
12 section 103 of this act). A user or generator required to prepare a
13 plan shall permit the director or a representative of the director to
14 review the plan to determine its adequacy. No visit made by the
15 director or a representative of the director to a facility for the
16 purposes of this subsection may be regarded as an inspection or
17 investigation, and no notices or citations may be issued, nor any civil
18 penalty assessed, upon such a visit.

19 (3) If a hazardous substance user or hazardous waste generator
20 fails to complete an adequate plan, executive summary, or annual
21 progress report, the department shall notify the user or generator of
22 the inadequacy, identifying specific deficiencies. For the purposes of
23 this section, a deficiency may include failure to develop a plan,
24 failure to submit an executive summary pursuant to the schedule
25 provided in RCW 70.95C.200(5), and failure to submit an annual progress
26 report pursuant to the rules developed under RCW 70.95C.200(6). The
27 department shall specify a reasonable time frame, of not less than
28 ninety days, within which the user or generator shall complete a
29 modified plan, executive summary, or annual progress report addressing
30 the specified deficiencies.

31 (4) If the department determines that a modified plan, executive
32 summary, or annual progress report is inadequate, the department may,
33 within its discretion, either require further modification or enter an
34 order pursuant to subsection (5)(a) of this section.

35 (5)(a) If, after having received a list of specified deficiencies
36 from the department, a hazardous substance user or hazardous waste
37 generator required to prepare a plan fails to complete modification of
38 a plan, executive summary, or annual progress report within the time

1 period specified by the department, the department may enter an order
2 pursuant to chapter 34.05 RCW finding the user or generator not in
3 compliance with the requirements of RCW 70.95C.200. When the order is
4 final, the department shall notify the department of revenue to charge
5 a penalty fee. The penalty fee shall be the greater of one thousand
6 dollars or three times the amount of the user's or generator's previous
7 year's fee, in addition to the current year's fee. If no fee was
8 assessed the previous year, the penalty shall be the greater of one
9 thousand dollars or three times the amount of the current year's fee.
10 The penalty assessed under this subsection shall be collected each year
11 after the year for which the penalty was assessed until an adequate
12 plan or executive summary is completed.

13 (b) If a hazardous substance user or hazardous waste generator
14 required to prepare a plan fails to complete an adequate plan,
15 executive summary, or annual progress report after the department has
16 levied against the user or generator the penalty provided in (a) of
17 this subsection, the user or generator shall be required to pay a
18 surcharge to the department whenever the user or generator disposes of
19 a hazardous waste at any hazardous waste incinerator or hazardous waste
20 landfill facility located in Washington state, until a plan, executive
21 summary, or annual progress report is completed and determined to be
22 adequate by the department. The surcharge shall be equal to three
23 times the fee charged for disposal. The department shall furnish the
24 incinerator and landfill facilities in this state with a list of
25 environmental protection agency/state identification numbers of the
26 hazardous waste generators that are not in compliance with the
27 requirements of RCW 70.95C.200.

28 **Sec. 339.** RCW 70.102.020 and 1985 c 410 s 1 are each amended to
29 read as follows:

30 There is hereby created the hazardous substance information and
31 education office. Through this office the department shall:

32 (1) Facilitate access to existing information on hazardous
33 substances within a community;

34 (2) Request and obtain information about hazardous substances at
35 specified locations and facilities from agencies that regulate those
36 locations and facilities. The department shall review, approve, and

1 provide confidentiality as provided by statute. Upon request of the
2 department, each agency shall provide the information within forty-five
3 days;

4 (3) At the request of citizens or public health or public safety
5 organizations, compile existing information about hazardous substance
6 use at specified locations and facilities. This information shall
7 include but not be limited to:

8 (a) Point and nonpoint air and water emissions;

9 (b) Extremely hazardous, moderate risk wastes and dangerous wastes
10 as defined in chapter 70.105 RCW produced, used, stored, transported
11 from, or disposed of by any facility;

12 (c) A list of the hazardous substances present at a given site and
13 data on their acute and chronic health and environmental effects;

14 (d) Data on governmental pesticide use at a given site;

15 (e) Data on commercial pesticide use at a given site if such data
16 is only given to individuals who are chemically sensitive; and

17 (f) Compliance history of any facility.

18 (4) Provide education to the public on the proper production, use,
19 storage, and disposal of hazardous substances, including but not
20 limited to:

21 (a) A technical resource center on hazardous substance management
22 for industry and the public;

23 (b) Programs, in cooperation with local government, to educate
24 generators of moderate risk waste, and provide information regarding
25 the potential hazards to human health and the environment resulting
26 from improper use and disposal of the waste and proper methods of
27 handling, reducing, recycling, and disposing of the waste;

28 (c) Public information and education relating to the safe handling
29 and disposal of hazardous household substances; and

30 (d) Guidelines to aid counties in developing and implementing a
31 hazardous household substances program.

32 Requests for information from the hazardous substance information
33 and education office may be made by letter or by a toll-free telephone
34 line, if one is established by the department. Requests shall be
35 responded to in accordance with chapter ((42.17-RCW)) 42.-- RCW (the
36 new chapter created in section 103 of this act).

37 This section shall not require any agency to compile information
38 that is not required by existing laws or ((regulations)) rules.

1 **Sec. 340.** RCW 70.120.100 and 1998 c 342 s 3 are each amended to
2 read as follows:

3 The department shall investigate complaints received regarding the
4 operation of emission testing stations and shall require corrections or
5 modifications in those operations when deemed necessary.

6 The department shall also review complaints received regarding the
7 maintenance or repairs secured by owners of motor vehicles for the
8 purpose of complying with the requirements of this chapter. When
9 possible, the department shall assist such owners in determining the
10 merits of the complaints.

11 The department shall keep a copy of all complaints received, and on
12 request, make copies available to the public. This is not intended to
13 require disclosure of any information that is exempt from public
14 disclosure under chapter ((42.17-RCW)) 42.-- RCW (the new chapter
15 created in section 103 of this act).

16 **Sec. 341.** RCW 70.148.060 and 1990 c 64 s 7 are each amended to
17 read as follows:

18 (1) All examination and proprietary reports and information
19 obtained by the director and the director's staff in soliciting bids
20 from insurers and in monitoring the insurer selected by the director
21 shall not be made public or otherwise disclosed to any person, firm,
22 corporation, agency, association, governmental body, or other entity.

23 (2) Subsection (1) of this section notwithstanding, the director
24 may furnish all or part of examination reports prepared by the director
25 or by any person, firm, corporation, association, or other entity
26 preparing the reports on behalf of the director to:

27 (a) The Washington state insurance commissioner;

28 (b) A person or organization officially connected with the insurer
29 as officer, director, attorney, auditor, or independent attorney or
30 independent auditor; and

31 (c) The attorney general in his or her role as legal advisor to the
32 director.

33 (3) Subsection (1) of this section notwithstanding, the director
34 may furnish all or part of the examination or proprietary reports or
35 information obtained by the director to:

36 (a) The Washington state insurance commissioner; and

1 (b) A person, firm, corporation, association, governmental body, or
2 other entity with whom the director has contracted for services
3 necessary to perform his or her official duties.

4 (4) Examination reports and proprietary information obtained by the
5 director and the director's staff are not subject to public disclosure
6 under chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in
7 section 103 of this act).

8 (5) A person who violates any provision of this section is guilty
9 of a gross misdemeanor.

10 **Sec. 342.** RCW 70.149.090 and 1995 c 20 s 9 are each amended to
11 read as follows:

12 The following shall be confidential and exempt under chapter
13 ((42.17 RCW)) 42.-- RCW (the new chapter created in section 103 of this
14 act), subject to the conditions set forth in this section:

15 (1) All examination and proprietary reports and information
16 obtained by the director and the director's staff in soliciting bids
17 from insurers and in monitoring the insurer selected by the director
18 may not be made public or otherwise disclosed to any person, firm,
19 corporation, agency, association, governmental body, or other entity.

20 (2) All information obtained by the director or the director's
21 staff related to registration of heating oil tanks to be insured may
22 not be made public or otherwise disclosed to any person, firm,
23 corporation, agency, association, governmental body, or other entity.

24 (3) The director may furnish all or part of examination reports
25 prepared by the director or by any person, firm, corporation,
26 association, or other entity preparing the reports on behalf of the
27 director to:

28 (a) The Washington state insurance commissioner;

29 (b) A person or organization officially connected with the insurer
30 as officer, director, attorney, auditor, or independent attorney or
31 independent auditor; and

32 (c) The attorney general in his or her role as legal advisor to the
33 director.

34 **Sec. 343.** RCW 70.168.070 and 1990 c 269 s 9 are each amended to
35 read as follows:

36 Any hospital or health care facility that desires to be authorized

1 to provide a designated trauma care service shall request designation
2 from the department. Designation involves a contractual relationship
3 between the state and a hospital or health care facility whereby each
4 agrees to maintain a level of commitment and resources sufficient to
5 meet responsibilities and standards required by the statewide emergency
6 medical services and trauma care system plan. By January 1992, the
7 department shall determine by rule the manner and form of such
8 requests. Upon receiving a request, the department shall review the
9 request to determine whether the hospital or health care facility is in
10 compliance with standards for the trauma care service or services for
11 which designation is desired. If requests are received from more than
12 one hospital or health care facility within the same emergency medical
13 planning and trauma care planning and service region, the department
14 shall select the most qualified applicant or applicants to be selected
15 through a competitive process. Any applicant not designated may
16 request a hearing to review the decision.

17 Designations are valid for a period of three years and are
18 renewable upon receipt of a request for renewal prior to expiration
19 from the hospital or health care facility. When an authorization for
20 designation is due for renewal other hospitals and health care
21 facilities in the area may also apply and compete for designation.
22 Regional emergency medical and trauma care councils shall be notified
23 promptly of designated hospitals and health care facilities in their
24 region so they may incorporate them into the regional plan as required
25 by this chapter. The department may revoke or suspend the designation
26 should it determine that the hospital or health care facility is
27 substantially out of compliance with the standards and has refused or
28 been unable to comply after a reasonable period of time has elapsed.
29 The department shall promptly notify the regional emergency medical and
30 trauma care planning and service region of suspensions or revocations.
31 Any facility whose designation has been revoked or suspended may
32 request a hearing to review the action by the department as provided
33 for in chapter 34.05 RCW.

34 As a part of the process to designate and renew the designation of
35 hospitals authorized to provide level I, II, or III trauma care
36 services or level I, II, and III pediatric trauma care services, the
37 department shall contract for on-site reviews of such hospitals to
38 determine compliance with required standards. The department may

1 contract for on-site reviews of hospitals and health care facilities
2 authorized to provide level IV or V trauma care services or level I, I-
3 pediatric, II, or III trauma-related rehabilitative services to
4 determine compliance with required standards. Members of on-site
5 review teams and staff included in site visits are exempt from ((RCW
6 ~~42.17.250 through 42.17.450~~)) chapter 42.-- RCW (the new chapter
7 created in section 103 of this act). They may not divulge and cannot
8 be subpoenaed to divulge information obtained or reports written
9 pursuant to this section in any civil action, except, after in camera
10 review, pursuant to a court order which provides for the protection of
11 sensitive information of interested parties including the department:
12 (1) In actions arising out of the department's designation of a
13 hospital or health care facility pursuant to this section; (2) in
14 actions arising out of the department's revocation or suspension of
15 designation status of a hospital or health care facility under this
16 section; or (3) in actions arising out of the restriction or revocation
17 of the clinical or staff privileges of a health care provider as
18 defined in RCW ((~~70.70.020~~)) 7.70.020 (1) and (2), subject to any
19 further restrictions on disclosure in RCW 4.24.250 that may apply.
20 Information that identifies individual patients shall not be publicly
21 disclosed without the patient's consent. When a facility requests
22 designation for more than one service, the department may coordinate
23 the joint consideration of such requests.

24 The department may establish fees to help defray the costs of this
25 section, though such fees shall not be assessed to health care
26 facilities authorized to provide level IV and V trauma care services.

27 This section shall not restrict the authority of a hospital or a
28 health care provider licensed under Title 18 RCW to provide services
29 which it has been authorized to provide by state law.

30 **Sec. 344.** RCW 70.168.090 and 1990 c 269 s 11 are each amended to
31 read as follows:

32 (1) By July 1991, the department shall establish a statewide data
33 registry to collect and analyze data on the incidence, severity, and
34 causes of trauma, including traumatic brain injury. The department
35 shall collect additional data on traumatic brain injury should
36 additional data requirements be enacted by the legislature. The
37 registry shall be used to improve the availability and delivery of

1 prehospital and hospital trauma care services. Specific data elements
2 of the registry shall be defined by rule by the department. To the
3 extent possible, the department shall coordinate data collection from
4 hospitals for the trauma registry with the (~~statewide hospital~~)
5 health care data system authorized in chapter 70.170 RCW. Every
6 hospital, facility, or health care provider authorized to provide level
7 I, II, III, IV, or V trauma care services, level I, II, or III
8 pediatric trauma care services, level I, level I-pediatric, II, or III
9 trauma-related rehabilitative services, and prehospital trauma-related
10 services in the state shall furnish data to the registry. All other
11 hospitals and prehospital providers shall furnish trauma data as
12 required by the department by rule.

13 The department may respond to requests for data and other
14 information from the registry for special studies and analysis
15 consistent with requirements for confidentiality of patient and quality
16 assurance records. The department may require requestors to pay any or
17 all of the reasonable costs associated with such requests that might be
18 approved.

19 (2) By January 1994, in each emergency medical services and trauma
20 care planning and service region, a regional emergency medical services
21 and trauma care systems quality assurance program shall be established
22 by those facilities authorized to provide levels I, II, and III trauma
23 care services. The systems quality assurance program shall evaluate
24 trauma care delivery, patient care outcomes, and compliance with the
25 requirements of this chapter. The emergency medical services medical
26 program director and all other health care providers and facilities who
27 provide trauma care services within the region shall be invited to
28 participate in the regional emergency medical services and trauma care
29 quality assurance program.

30 (3) Data elements related to the identification of individual
31 patient's, provider's and facility's care outcomes shall be
32 confidential, shall be exempt from RCW 42.17.250 through 42.17.450 (as
33 recodified by this act), and shall not be subject to discovery by
34 subpoena or admissible as evidence.

35 (4) Patient care quality assurance proceedings, records, and
36 reports developed pursuant to this section are confidential, exempt
37 from (~~RCW 42.17.250 through 42.17.450~~) chapter 42.-- RCW (the new
38 chapter created in section 103 of this act), and are not subject to

1 discovery by subpoena or admissible as evidence. In any civil action,
2 except, after in camera review, pursuant to a court order which
3 provides for the protection of sensitive information of interested
4 parties including the department: (a) In actions arising out of the
5 department's designation of a hospital or health care facility pursuant
6 to RCW 70.168.070; (b) in actions arising out of the department's
7 revocation or suspension of designation status of a hospital or health
8 care facility under RCW 70.168.070; or (c) in actions arising out of
9 the restriction or revocation of the clinical or staff privileges of a
10 health care provider as defined in RCW 7.70.020 (1) and (2), subject to
11 any further restrictions on disclosure in RCW 4.24.250 that may apply.
12 Information that identifies individual patients shall not be publicly
13 disclosed without the patient's consent.

14 **Sec. 345.** RCW 70.190.060 and 1998 c 314 s 12 are each amended to
15 read as follows:

16 (1) The legislature authorizes community public health and safety
17 networks to reconnect parents and other citizens with children, youth,
18 families, and community institutions which support health and safety.
19 The networks have only those powers and duties expressly authorized
20 under this chapter. The networks should empower parents and other
21 citizens by being a means of expressing their attitudes, spirit, and
22 perspectives regarding safe and healthy family and community life. The
23 legislature intends that parent and other citizen perspectives exercise
24 a controlling influence over policy and program operations of
25 professional organizations concerned with children and family issues
26 within networks in a manner consistent with the Constitution and state
27 law. It is not the intent of the legislature that health, social
28 service, or educational professionals dominate community public health
29 and safety network processes or programs, but rather that these
30 professionals use their skills to lend support to parents and other
31 citizens in expressing their values as parents and other citizens
32 identify community needs and establish community priorities. To this
33 end, the legislature intends full participation of parents and other
34 citizens in community public health and safety networks. The intent is
35 that local community values are reflected in the operations of the
36 network.

1 (2) A group of persons described in subsection (3) of this section
2 may apply to be a community public health and safety network.

3 (3) Each community public health and safety network shall be
4 composed of twenty-three people, thirteen of whom shall be citizens who
5 live within the network boundary with no fiduciary interest. In
6 selecting these members, first priority shall be given to members of
7 community mobilization advisory boards, city or county children's
8 services commissions, human services advisory boards, or other such
9 organizations. The thirteen persons shall be selected as follows:
10 Three by chambers of commerce, three by school board members, three by
11 county legislative authorities, three by city legislative authorities,
12 and one high school student, selected by student organizations. The
13 remaining ten members shall live or work within the network boundary
14 and shall include local representation selected by the following groups
15 and entities: Cities; counties; federally recognized Indian tribes;
16 parks and recreation programs; law enforcement agencies; state
17 children's service workers; employment assistance workers; private
18 social service providers, broad-based nonsecular organizations, or
19 health service providers; and public education.

20 (4) Each of the twenty-three people who are members of each
21 community public health and safety network must sign an annual
22 declaration under penalty of perjury or a notarized statement that
23 clearly, in plain and understandable language, states whether or not he
24 or she has a fiduciary interest. If a member has a fiduciary interest,
25 the nature of that interest must be made clear, in plain understandable
26 language, on the signed statement.

27 (5) Members of the network shall serve terms of three years.

28 The terms of the initial members of each network shall be as
29 follows: (a) One-third shall serve for one year; (b) one-third shall
30 serve for two years; and (c) one-third shall serve for three years.
31 Initial members may agree which shall serve fewer than three years or
32 the decision may be made by lot. Any vacancy occurring during the term
33 may be filled by the chair for the balance of the unexpired term.

34 (6) Not less than sixty days before the expiration of a network
35 member's term, the chair shall submit the name of a nominee to the
36 network for its approval. The network shall comply with subsection (3)
37 of this section.

1 (7) Networks are subject to the open public meetings act under
2 chapter 42.30 RCW and the public records provisions of (~~RCW 42.17.270~~
3 ~~through 42.17.310~~) chapter 42.-- RCW (the new chapter created in
4 section 103 of this act).

5 **Sec. 346.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and
6 2004 c 33 s 2 are each reenacted and amended to read as follows:

7 Except as provided in this section, the fact of admission and all
8 information and records compiled, obtained, or maintained in the course
9 of providing services to either voluntary or involuntary recipients of
10 services at public or private agencies shall be confidential.

11 Information and records may be disclosed only:

12 (1) In communications between qualified professional persons to
13 meet the requirements of this chapter, in the provision of services or
14 appropriate referrals, or in the course of guardianship proceedings.
15 The consent of the patient, or his or her guardian, shall be obtained
16 before information or records may be disclosed by a professional person
17 employed by a facility unless provided to a professional person:

18 (a) Employed by the facility;

19 (b) Who has medical responsibility for the patient's care;

20 (c) Who is a county designated mental health professional;

21 (d) Who is providing services under chapter 71.24 RCW;

22 (e) Who is employed by a state or local correctional facility where
23 the person is confined or supervised; or

24 (f) Who is providing evaluation, treatment, or follow-up services
25 under chapter 10.77 RCW.

26 (2) When the communications regard the special needs of a patient
27 and the necessary circumstances giving rise to such needs and the
28 disclosure is made by a facility providing outpatient services to the
29 operator of a care facility in which the patient resides.

30 (3) When the person receiving services, or his or her guardian,
31 designates persons to whom information or records may be released, or
32 if the person is a minor, when his or her parents make such
33 designation.

34 (4) To the extent necessary for a recipient to make a claim, or for
35 a claim to be made on behalf of a recipient for aid, insurance, or
36 medical assistance to which he or she may be entitled.

1 (5) For either program evaluation or research, or both: PROVIDED,
2 That the secretary adopts rules for the conduct of the evaluation or
3 research, or both. Such rules shall include, but need not be limited
4 to, the requirement that all evaluators and researchers must sign an
5 oath of confidentiality substantially as follows:

6 "As a condition of conducting evaluation or research concerning
7 persons who have received services from (fill in the facility, agency,
8 or person) I,, agree not to divulge, publish, or
9 otherwise make known to unauthorized persons or the public any
10 information obtained in the course of such evaluation or research
11 regarding persons who have received services such that the person who
12 received such services is identifiable.

13 I recognize that unauthorized release of confidential information
14 may subject me to civil liability under the provisions of state law.

15 /s/ "

16 (6)(a) To the courts as necessary to the administration of this
17 chapter or to a court ordering an evaluation or treatment under chapter
18 10.77 RCW solely for the purpose of preventing the entry of any
19 evaluation or treatment order that is inconsistent with any order
20 entered under this chapter.

21 (b) To a court or its designee in which a motion under chapter
22 10.77 RCW has been made for involuntary medication of a defendant for
23 the purpose of competency restoration.

24 (c) Disclosure under this subsection is mandatory for the purpose
25 of the health insurance portability and accountability act.

26 (7) To law enforcement officers, public health officers, or
27 personnel of the department of corrections or the indeterminate
28 sentence review board for persons who are the subject of the records
29 and who are committed to the custody or supervision of the department
30 of corrections or indeterminate sentence review board which information
31 or records are necessary to carry out the responsibilities of their
32 office. Except for dissemination of information released pursuant to
33 RCW 71.05.425 and 4.24.550, regarding persons committed under this
34 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of

1 a sex offense as defined in RCW 9.94A.030, the extent of information
2 that may be released is limited as follows:

3 (a) Only the fact, place, and date of involuntary commitment, the
4 fact and date of discharge or release, and the last known address shall
5 be disclosed upon request;

6 (b) The law enforcement and public health officers or personnel of
7 the department of corrections or indeterminate sentence review board
8 shall be obligated to keep such information confidential in accordance
9 with this chapter;

10 (c) Additional information shall be disclosed only after giving
11 notice to said person and his or her counsel and upon a showing of
12 clear, cogent, and convincing evidence that such information is
13 necessary and that appropriate safeguards for strict confidentiality
14 are and will be maintained. However, in the event the said person has
15 escaped from custody, said notice prior to disclosure is not necessary
16 and that the facility from which the person escaped shall include an
17 evaluation as to whether the person is of danger to persons or property
18 and has a propensity toward violence;

19 (d) Information and records shall be disclosed to the department of
20 corrections pursuant to and in compliance with the provisions of RCW
21 71.05.445 for the purposes of completing presentence investigations or
22 risk assessment reports, supervision of an incarcerated offender or
23 offender under supervision in the community, planning for and provision
24 of supervision of an offender, or assessment of an offender's risk to
25 the community; and

26 (e) Disclosure under this subsection is mandatory for the purposes
27 of the health insurance portability and accountability act.

28 (8) To the attorney of the detained person.

29 (9) To the prosecuting attorney as necessary to carry out the
30 responsibilities of the office under RCW 71.05.330(2) and
31 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
32 to records regarding the committed person's treatment and prognosis,
33 medication, behavior problems, and other records relevant to the issue
34 of whether treatment less restrictive than inpatient treatment is in
35 the best interest of the committed person or others. Information shall
36 be disclosed only after giving notice to the committed person and the
37 person's counsel.

1 (10) To appropriate law enforcement agencies and to a person, when
2 the identity of the person is known to the public or private agency,
3 whose health and safety has been threatened, or who is known to have
4 been repeatedly harassed, by the patient. The person may designate a
5 representative to receive the disclosure. The disclosure shall be made
6 by the professional person in charge of the public or private agency or
7 his or her designee and shall include the dates of commitment,
8 admission, discharge, or release, authorized or unauthorized absence
9 from the agency's facility, and only such other information that is
10 pertinent to the threat or harassment. The decision to disclose or not
11 shall not result in civil liability for the agency or its employees so
12 long as the decision was reached in good faith and without gross
13 negligence.

14 (11) To appropriate corrections and law enforcement agencies all
15 necessary and relevant information in the event of a crisis or emergent
16 situation that poses a significant and imminent risk to the public.
17 The decision to disclose or not shall not result in civil liability for
18 the mental health service provider or its employees so long as the
19 decision was reached in good faith and without gross negligence.

20 (12) To the persons designated in RCW 71.05.425 for the purposes
21 described in that section.

22 (13) Civil liability and immunity for the release of information
23 about a particular person who is committed to the department under RCW
24 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
25 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

26 (14) To a patient's next of kin, guardian, or conservator, if any,
27 in the event of death, as provided in RCW 71.05.400.

28 (15) To the department of health for the purposes of determining
29 compliance with state or federal licensure, certification, or
30 registration rules or laws. However, the information and records
31 obtained under this subsection are exempt from public inspection and
32 copying pursuant to chapter ((42.17-RCW)) 42.-- RCW (the new chapter
33 created in section 103 of this act).

34 (16) To mark headstones or otherwise memorialize patients interred
35 at state hospital cemeteries. The department of social and health
36 services shall make available the name, date of birth, and date of
37 death of patients buried in state hospital cemeteries fifty years after
38 the death of a patient.

1 The fact of admission, as well as all records, files, evidence,
2 findings, or orders made, prepared, collected, or maintained pursuant
3 to this chapter shall not be admissible as evidence in any legal
4 proceeding outside this chapter without the written consent of the
5 person who was the subject of the proceeding except in a subsequent
6 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
7 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
8 10.77 RCW due to incompetency to stand trial or in a civil commitment
9 proceeding pursuant to chapter 71.09 RCW. The records and files
10 maintained in any court proceeding pursuant to this chapter shall be
11 confidential and available subsequent to such proceedings only to the
12 person who was the subject of the proceeding or his or her attorney.
13 In addition, the court may order the subsequent release or use of such
14 records or files only upon good cause shown if the court finds that
15 appropriate safeguards for strict confidentiality are and will be
16 maintained.

17 **Sec. 347.** RCW 72.09.116 and 2004 c 167 s 8 are each amended to
18 read as follows:

19 All records, documents, data, and other materials obtained under
20 the requirements of RCW 72.09.115 from an existing correctional
21 industries class I work program participant or an applicant for a
22 proposed new or expanded class I correctional industries work program
23 are exempt from public disclosure under chapter ((42.17 RCW)) 42.-- RCW
24 (the new chapter created in section 103 of this act).

25 **Sec. 348.** RCW 72.09.225 and 1999 c 72 s 2 are each amended to read
26 as follows:

27 (1) When the secretary has reasonable cause to believe that sexual
28 intercourse or sexual contact between an employee and an inmate has
29 occurred, notwithstanding any rule adopted under chapter 41.06 RCW the
30 secretary shall immediately suspend the employee.

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

33 (a) Who is found by the department, based on a preponderance of the
34 evidence, to have had sexual intercourse or sexual contact with the
35 inmate; or

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

3 (3) When the secretary has reasonable cause to believe that sexual
4 intercourse or sexual contact between the employee of a contractor and
5 an inmate has occurred, the secretary shall require the employee of a
6 contractor to be immediately removed from any employment position which
7 would permit the employee to have any access to any inmate.

8 (4) The secretary shall disqualify for employment with a contractor
9 in any position with access to an inmate, any person:

10 (a) Who is found by the department, based on a preponderance of the
11 evidence, to have had sexual intercourse or sexual contact with the
12 inmate; or

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

15 (5) The secretary, when considering the renewal of a contract with
16 a contractor who has taken action under subsection (3) or (4) of this
17 section, shall require the contractor to demonstrate that there has
18 been significant progress made in reducing the likelihood that any of
19 its employees will have sexual intercourse or sexual contact with an
20 inmate. The secretary shall examine whether the contractor has taken
21 steps to improve hiring, training, and monitoring practices and whether
22 the employee remains with the contractor. The secretary shall not
23 renew a contract unless he or she determines that significant progress
24 has been made.

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

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

31 (ii) An appointed or elected public official, public employee, or
32 public agency as defined in RCW 4.24.470 is immune from civil liability
33 for damages for any discretionary release of relevant and necessary
34 information, unless it is shown that the official, employee, or agency
35 acted with gross negligence or in bad faith. The immunity provided
36 under this section applies to the release of relevant and necessary
37 information to other public officials, public employees, or public
38 agencies, and to the public.

1 (iii) Except as provided in chapter (~~42.17 RCW~~) 42.-- RCW (the
2 new chapter created in section 103 of this act), or elsewhere, nothing
3 in this section shall impose any liability upon a public official,
4 public employee, or public agency for failing to release information
5 authorized under this section. Nothing in this section implies that
6 information regarding persons designated in subsection (2) of this
7 section is confidential except as may otherwise be provided by law.

8 (7) The department shall adopt rules to implement this section.
9 The rules shall reflect the legislative intent that this section
10 prohibits individuals who are employed by the department or a
11 contractor of the department from having sexual intercourse or sexual
12 contact with inmates. The rules shall also reflect the legislative
13 intent that when a person is employed by the department or a contractor
14 of the department, and has sexual intercourse or sexual contact with an
15 inmate against the employed person's will, the termination provisions
16 of this section shall not be invoked.

17 (8) As used in this section:

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

19 (b) "Inmate" means an inmate as defined in RCW 72.09.015 or a
20 person under the supervision of the department; and

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

23 **Sec. 349.** RCW 73.04.030 and 2002 c 224 s 3 are each amended to
24 read as follows:

25 Each county auditor of the several counties of the state of
26 Washington shall record upon presentation without expense, in a
27 suitable permanent record the discharge of any veteran of the armed
28 forces of the United States who is residing in the state of Washington.

29 The department of veterans affairs, in consultation with the
30 association of county auditors, shall develop and distribute to county
31 auditors the form referred to in (~~RCW 42.17.310(1)(aaa)~~) section 424
32 of this act entitled "request for exemption from public disclosure of
33 discharge papers."

34 The county auditor may charge a basic recording fee and
35 preservation fee that together shall not exceed a total of seven
36 dollars for the recording of the "request for exemption from public
37 disclosure of discharge papers."

1 County auditors shall develop a form for requestors of military
2 discharge papers (form DD214) to verify that the requestor is
3 authorized to receive or view the military discharge paper.

4 **Sec. 350.** RCW 74.09A.020 and 1993 c 10 s 3 are each amended to
5 read as follows:

6 (1) The medical assistance administration shall provide routine and
7 periodic computerized information to private insurers regarding client
8 eligibility and coverage information. Private insurers shall use this
9 information to identify joint beneficiaries. Identification of joint
10 beneficiaries shall be transmitted to the medical assistance
11 administration. The medical assistance administration shall use this
12 information to improve accuracy and currency of health insurance
13 coverage and promote improved coordination of benefits.

14 (2) To the maximum extent possible, necessary data elements and a
15 compatible data base shall be developed by affected health insurers and
16 the medical assistance administration. The medical assistance
17 administration shall establish a representative group of insurers and
18 state agency representatives to develop necessary technical and file
19 specifications to promote a standardized data base. The data base
20 shall include elements essential to the medical assistance
21 administration and its population's insurance coverage information.

22 (3) If the state and private insurers enter into other agreements
23 regarding the use of common computer standards, the data base
24 identified in this section shall be replaced by the new common computer
25 standards.

26 (4) The information provided will be of sufficient detail to
27 promote reliable and accurate benefit coordination and identification
28 of individuals who are also eligible for medical assistance
29 administration programs.

30 (5) The frequency of updates will be mutually agreed to by each
31 insurer and the medical assistance administration based on frequency of
32 change and operational limitations. In no event shall the computerized
33 data be provided less than semiannually.

34 (6) The insurers and the medical assistance administration shall
35 safeguard and properly use the information to protect records as
36 provided by law, including but not limited to chapters 42.48, 74.09,
37 74.04, and 70.02 RCW, (~~RCW 42.17.310~~) chapter 42.-- RCW (the new

1 chapter created in section 103 of this act), and 42 U.S.C. Sec. 1396a
2 and 42 C.F.R. Sec. 43 et seq. The purpose of this exchange of
3 information is to improve coordination and administration of benefits
4 and ensure that medical insurance benefits are properly utilized.

5 (7) The medical assistance administration shall target
6 implementation of this chapter to those private insurers with the
7 highest probability of joint beneficiaries.

8 **Sec. 351.** RCW 74.13.500 and 1999 c 339 s 1 are each amended to
9 read as follows:

10 (1) Consistent with the provisions of chapter (~~(42.17 RCW)~~) 42.--
11 RCW (the new chapter created in section 103 of this act) and applicable
12 federal law, the secretary, or the secretary's designee, shall disclose
13 information regarding the abuse or neglect of a child, the
14 investigation of the abuse, neglect, or near fatality of a child, and
15 any services related to the abuse or neglect of a child if any one of
16 the following factors is present:

17 (a) The subject of the report has been charged in an accusatory
18 instrument with committing a crime related to a report maintained by
19 the department in its case and management information system;

20 (b) The investigation of the abuse or neglect of the child by the
21 department or the provision of services by the department has been
22 publicly disclosed in a report required to be disclosed in the course
23 of their official duties, by a law enforcement agency or official, a
24 prosecuting attorney, any other state or local investigative agency or
25 official, or by a judge of the superior court;

26 (c) There has been a prior knowing, voluntary public disclosure by
27 an individual concerning a report of child abuse or neglect in which
28 such individual is named as the subject of the report; or

29 (d) The child named in the report has died and the child's death
30 resulted from abuse or neglect or the child was in the care of, or
31 receiving services from the department at the time of death or within
32 twelve months before death.

33 (2) The secretary is not required to disclose information if the
34 factors in subsection (1) of this section are present if he or she
35 specifically determines the disclosure is contrary to the best
36 interests of the child, the child's siblings, or other children in the
37 household.

1 (3) Except for cases in subsection (1)(d) of this section, requests
2 for information under this section shall specifically identify the case
3 about which information is sought and the facts that support a
4 determination that one of the factors specified in subsection (1) of
5 this section is present.

6 (4) For the purposes of this section, "near fatality" means an act
7 that, as certified by a physician, places the child in serious or
8 critical condition. The secretary is under no obligation to have an
9 act certified by a physician in order to comply with this section.

10 **Sec. 352.** RCW 74.13.515 and 1997 c 305 s 5 are each amended to
11 read as follows:

12 For purposes of RCW 74.13.500(1)(d), the secretary must make the
13 fullest possible disclosure consistent with chapter (~~42.17 RCW~~) 42.--
14 RCW (the new chapter created in section 103 of this act) and applicable
15 federal law in cases of all fatalities of children who were in the care
16 of, or receiving services from, the department at the time of their
17 death or within the twelve months previous to their death.

18 If the secretary specifically determines that disclosure of the
19 name of the deceased child is contrary to the best interests of the
20 child's siblings or other children in the household, the secretary may
21 remove personally identifying information.

22 For the purposes of this section, "personally identifying
23 information" means the name, street address, social security number,
24 and day of birth of the child who died and of private persons who are
25 relatives of the child named in child welfare records. "Personally
26 identifying information" shall not include the month or year of birth
27 of the child who has died. Once this personally identifying
28 information is removed, the remainder of the records pertaining to a
29 child who has died must be released regardless of whether the remaining
30 facts in the records are embarrassing to the unidentifiable other
31 private parties or to identifiable public workers who handled the case.

32 **Sec. 353.** RCW 74.13.525 and 1997 c 305 s 7 are each amended to
33 read as follows:

34 The department, when acting in good faith, is immune from any
35 criminal or civil liability, except as provided under RCW 42.17.340 (as

1 recodified by this act), for any action taken under RCW 74.13.500
2 through 74.13.520.

3 **Sec. 354.** RCW 74.34.063 and 1999 c 176 s 8 are each amended to
4 read as follows:

5 (1) The department shall initiate a response to a report, no later
6 than twenty-four hours after knowledge of the report, of suspected
7 abandonment, abuse, financial exploitation, neglect, or self-neglect of
8 a vulnerable adult.

9 (2) When the initial report or investigation by the department
10 indicates that the alleged abandonment, abuse, financial exploitation,
11 or neglect may be criminal, the department shall make an immediate
12 report to the appropriate law enforcement agency. The department and
13 law enforcement will coordinate in investigating reports made under
14 this chapter. The department may provide protective services and other
15 remedies as specified in this chapter.

16 (3) The law enforcement agency or the department shall report the
17 incident in writing to the proper county prosecutor or city attorney
18 for appropriate action whenever the investigation reveals that a crime
19 may have been committed.

20 (4) The department and law enforcement may share information
21 contained in reports and findings of abandonment, abuse, financial
22 exploitation, and neglect of vulnerable adults, consistent with RCW
23 74.04.060, (~~(42.17.310)~~) chapter 42.-- RCW (the new chapter created in
24 section 103 of this act), and other applicable confidentiality laws.

25 (5) The department shall notify the proper licensing authority
26 concerning any report received under this chapter that alleges that a
27 person who is professionally licensed, certified, or registered under
28 Title 18 RCW has abandoned, abused, financially exploited, or neglected
29 a vulnerable adult.

30 **Sec. 355.** RCW 74.39A.200 and 2000 c 121 s 11 are each amended to
31 read as follows:

32 All training curricula and material, except competency testing
33 material, developed by or for the department and used in part or in
34 whole for the purpose of improving provider and caregiver knowledge and
35 skill are in the public domain unless otherwise protected by copyright
36 law and are subject to disclosure under chapter (~~(42.17-RCW)~~) 42.-- RCW

1 (the new chapter created in section 103 of this act). Any training
2 curricula and material developed by a private entity through a contract
3 with the department are also considered part of the public domain and
4 shall be shared subject to copyright restrictions. Any proprietary
5 curricula and material developed by a private entity for the purposes
6 of training staff in facilities licensed under chapter 18.20 or 70.128
7 RCW or individual providers and home care agency providers under this
8 chapter and approved for training by the department are not part of the
9 public domain.

10 **Sec. 356.** RCW 74.46.820 and 1998 c 322 s 43 are each amended to
11 read as follows:

12 (1) Cost reports and their final audit reports filed by the
13 contractor shall be subject to public disclosure pursuant to the
14 requirements of chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter
15 created in section 103 of this act).

16 (2) Subsection (1) of this section does not prevent a contractor
17 from having access to its own records or from authorizing an agent or
18 designee to have access to the contractor's records.

19 (3) Regardless of whether any document or report submitted to the
20 secretary pursuant to this chapter is subject to public disclosure,
21 copies of such documents or reports shall be provided by the secretary,
22 upon written request, to the legislature and to state agencies or state
23 or local law enforcement officials who have an official interest in the
24 contents thereof.

25 **Sec. 357.** RCW 76.09.060 and 2003 c 314 s 5 are each amended to
26 read as follows:

27 The following shall apply to those forest practices administered
28 and enforced by the department and for which the board shall promulgate
29 regulations as provided in this chapter:

30 (1) The department shall prescribe the form and contents of the
31 notification and application. The forest practices rules shall specify
32 by whom and under what conditions the notification and application
33 shall be signed or otherwise certified as acceptable. The application
34 or notification shall be delivered in person to the department, sent by
35 first class mail to the department or electronically filed in a form
36 defined by the department. The form for electronic filing shall be

1 readily convertible to a paper copy, which shall be available to the
2 public pursuant to chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter
3 created in section 103 of this act). The information required may
4 include, but is not limited to:

5 (a) Name and address of the forest landowner, timber owner, and
6 operator;

7 (b) Description of the proposed forest practice or practices to be
8 conducted;

9 (c) Legal description and tax parcel identification numbers of the
10 land on which the forest practices are to be conducted;

11 (d) Planimetric and topographic maps showing location and size of
12 all lakes and streams and other public waters in and immediately
13 adjacent to the operating area and showing all existing and proposed
14 roads and major tractor roads;

15 (e) Description of the silvicultural, harvesting, or other forest
16 practice methods to be used, including the type of equipment to be used
17 and materials to be applied;

18 (f) Proposed plan for reforestation and for any revegetation
19 necessary to reduce erosion potential from roadsides and yarding roads,
20 as required by the forest practices rules;

21 (g) Soil, geological, and hydrological data with respect to forest
22 practices;

23 (h) The expected dates of commencement and completion of all forest
24 practices specified in the application;

25 (i) Provisions for continuing maintenance of roads and other
26 construction or other measures necessary to afford protection to public
27 resources;

28 (j) An affirmation that the statements contained in the
29 notification or application are true; and

30 (k) All necessary application or notification fees.

31 (2) Long range plans may be submitted to the department for review
32 and consultation.

33 (3) The application for a forest practice or the notification of a
34 Class II forest practice is subject to the three-year reforestation
35 requirement.

36 (a) If the application states that any such land will be or is
37 intended to be so converted:

1 (i) The reforestation requirements of this chapter and of the
2 forest practices rules shall not apply if the land is in fact so
3 converted unless applicable alternatives or limitations are provided in
4 forest practices rules issued under RCW 76.09.070 as now or hereafter
5 amended;

6 (ii) Completion of such forest practice operations shall be deemed
7 conversion of the lands to another use for purposes of chapters 84.33
8 and 84.34 RCW unless the conversion is to a use permitted under a
9 current use tax agreement permitted under chapter 84.34 RCW;

10 (iii) The forest practices described in the application are subject
11 to applicable county, city, town, and regional governmental authority
12 permitted under RCW 76.09.240 as now or hereafter amended as well as
13 the forest practices rules.

14 (b) Except as provided elsewhere in this section, if the
15 application or notification does not state that any land covered by the
16 application or notification will be or is intended to be so converted:

17 (i) For six years after the date of the application the county,
18 city, town, and regional governmental entities shall deny any or all
19 applications for permits or approvals, including building permits and
20 subdivision approvals, relating to nonforestry uses of land subject to
21 the application;

22 (A) The department shall submit to the local governmental entity a
23 copy of the statement of a forest landowner's intention not to convert
24 which shall represent a recognition by the landowner that the six-year
25 moratorium shall be imposed and shall preclude the landowner's ability
26 to obtain development permits while the moratorium is in place. This
27 statement shall be filed by the local governmental entity with the
28 county recording officer, who shall record the documents as provided in
29 chapter 65.04 RCW, except that lands designated as forest lands of
30 long-term commercial significance under chapter 36.70A RCW shall not be
31 recorded due to the low likelihood of conversion. Not recording the
32 statement of a forest landowner's conversion intention shall not be
33 construed to mean the moratorium is not in effect.

34 (B) The department shall collect the recording fee and reimburse
35 the local governmental entity for the cost of recording the
36 application.

37 (C) When harvesting takes place without an application, the local

1 governmental entity shall impose the six-year moratorium provided in
2 (b)(i) of this subsection from the date the unpermitted harvesting was
3 discovered by the department or the local governmental entity.

4 (D) The local governmental entity shall develop a process for
5 lifting the six-year moratorium, which shall include public
6 notification, and procedures for appeals and public hearings.

7 (E) The local governmental entity may develop an administrative
8 process for lifting or waiving the six-year moratorium for the purposes
9 of constructing a single-family residence or outbuildings, or both, on
10 a legal lot and building site. Lifting or waiving of the six-year
11 moratorium is subject to compliance with all local ordinances.

12 (F) The six-year moratorium shall not be imposed on a forest
13 practices application that contains a conversion option harvest plan
14 approved by the local governmental entity unless the forest practice
15 was not in compliance with the approved forest practice permit. Where
16 not in compliance with the conversion option harvest plan, the six-year
17 moratorium shall be imposed from the date the application was approved
18 by the department or the local governmental entity;

19 (ii) Failure to comply with the reforestation requirements
20 contained in any final order or decision shall constitute a removal of
21 designation under the provisions of RCW 84.33.140, and a change of use
22 under the provisions of RCW 84.34.080, and, if applicable, shall
23 subject such lands to the payments and/or penalties resulting from such
24 removals or changes; and

25 (iii) Conversion to a use other than commercial forest product
26 operations within six years after approval of the forest practices
27 without the consent of the county, city, or town shall constitute a
28 violation of each of the county, municipal city, town, and regional
29 authorities to which the forest practice operations would have been
30 subject if the application had so stated.

31 (c) The application or notification shall be signed by the forest
32 landowner and accompanied by a statement signed by the forest landowner
33 indicating his or her intent with respect to conversion and
34 acknowledging that he or she is familiar with the effects of this
35 subsection.

36 (4) Whenever an approved application authorizes a forest practice
37 which, because of soil condition, proximity to a water course or other
38 unusual factor, has a potential for causing material damage to a public

1 resource, as determined by the department, the applicant shall, when
2 requested on the approved application, notify the department two days
3 before the commencement of actual operations.

4 (5) Before the operator commences any forest practice in a manner
5 or to an extent significantly different from that described in a
6 previously approved application or notification, there shall be
7 submitted to the department a new application or notification form in
8 the manner set forth in this section.

9 (6) Except as provided in RCW 76.09.350(4), the notification to or
10 the approval given by the department to an application to conduct a
11 forest practice shall be effective for a term of two years from the
12 date of approval or notification and shall not be renewed unless a new
13 application is filed and approved or a new notification has been filed.
14 At the option of the applicant, an application or notification may be
15 submitted to cover a single forest practice or a number of forest
16 practices within reasonable geographic or political boundaries as
17 specified by the department. An application or notification that
18 covers more than one forest practice may have an effective term of more
19 than two years. The board shall adopt rules that establish standards
20 and procedures for approving an application or notification that has an
21 effective term of more than two years. Such rules shall include
22 extended time periods for application or notification approval or
23 disapproval. On an approved application with a term of more than two
24 years, the applicant shall inform the department before commencing
25 operations.

26 (7) Notwithstanding any other provision of this section, no prior
27 application or notification shall be required for any emergency forest
28 practice necessitated by fire, flood, windstorm, earthquake, or other
29 emergency as defined by the board, but the operator shall submit an
30 application or notification, whichever is applicable, to the department
31 within forty-eight hours after commencement of such practice or as
32 required by local regulations.

33 (8) Forest practices applications or notifications are not required
34 for forest practices conducted to control exotic forest insect or
35 disease outbreaks, when conducted by or under the direction of the
36 department of agriculture in carrying out an order of the governor or
37 director of the department of agriculture to implement pest control
38 measures as authorized under chapter 17.24 RCW, and are not required

1 when conducted by or under the direction of the department in carrying
2 out emergency measures under a forest health emergency declaration by
3 the commissioner of public lands as provided in RCW 76.06.130.

4 (a) For the purposes of this subsection, exotic forest insect or
5 disease has the same meaning as defined in RCW 76.06.020.

6 (b) In order to minimize adverse impacts to public resources,
7 control measures must be based on integrated pest management, as
8 defined in RCW 17.15.010, and must follow forest practices rules
9 relating to road construction and maintenance, timber harvest, and
10 forest chemicals, to the extent possible without compromising control
11 objectives.

12 (c) Agencies conducting or directing control efforts must provide
13 advance notice to the appropriate regulatory staff of the department of
14 the operations that would be subject to exemption from forest practices
15 application or notification requirements.

16 (d) When the appropriate regulatory staff of the department are
17 notified under (c) of this subsection, they must consult with the
18 landowner, interested agencies, and affected tribes, and assist the
19 notifying agencies in the development of integrated pest management
20 plans that comply with forest practices rules as required under (b) of
21 this subsection.

22 (e) Nothing under this subsection relieves agencies conducting or
23 directing control efforts from requirements of the federal clean water
24 act as administered by the department of ecology under RCW 90.48.260.

25 (f) Forest lands where trees have been cut as part of an exotic
26 forest insect or disease control effort under this subsection are
27 subject to reforestation requirements under RCW 76.09.070.

28 (g) The exemption from obtaining approved forest practices
29 applications or notifications does not apply to forest practices
30 conducted after the governor, the director of the department of
31 agriculture, or the commissioner of public lands have declared that an
32 emergency no longer exists because control objectives have been met,
33 that there is no longer an imminent threat, or that there is no longer
34 a good likelihood of control.

35 **Sec. 358.** RCW 80.04.095 and 1987 c 107 s 1 are each amended to
36 read as follows:

37 Records, subject to chapter ((42.17-RCW)) 42.-- RCW (the new

1 chapter created in section 103 of this act), filed with the commission
2 or the attorney general from any person which contain valuable
3 commercial information, including trade secrets or confidential
4 marketing, cost, or financial information, or customer-specific usage
5 and network configuration and design information, shall not be subject
6 to inspection or copying under chapter (~~42.17 RCW~~) 42.-- RCW (the new
7 chapter created in section 103 of this act)): (1) Until notice to the
8 person or persons directly affected has been given; and (2) if, within
9 ten days of the notice, the person has obtained a superior court order
10 protecting the records as confidential. The court shall determine that
11 the records are confidential and not subject to inspection and copying
12 if disclosure would result in private loss, including an unfair
13 competitive disadvantage. When providing information to the commission
14 or the attorney general, a person shall designate which records or
15 portions of records contain valuable commercial information. Nothing
16 in this section shall prevent the use of protective orders by the
17 commission governing disclosure of proprietary or confidential
18 information in contested proceedings.

19 **Sec. 359.** RCW 81.104.115 and 2001 c 127 s 1 are each amended to
20 read as follows:

21 (1) The department may collect and review the system safety and
22 security program plan prepared by each owner or operator of a rail
23 fixed guideway system. In carrying out this function, the department
24 may adopt rules specifying the elements and standard to be contained in
25 a system safety and security program plan, and the content of any
26 investigation report, corrective action plan, and accompanying
27 implementation schedule resulting from a reportable accident,
28 unacceptable hazardous condition, or security breach. These rules may
29 include due dates for the department's timely receipt of and response
30 to required documents.

31 (2) The security section of the system safety and security plan as
32 described in subsection (1)(d) of RCW 35.21.228, 35A.21.300, 36.01.210,
33 36.57.120, 36.57A.170, and 81.112.180 are exempt from public disclosure
34 under chapter (~~42.17 RCW~~) 42.-- RCW (the new chapter created in
35 section 103 of this act) by the department when collected from the
36 owners and operators of fixed railway systems. However, the activities

1 and plans as described in subsection (1)(a), (b), and (c) of RCW
2 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180
3 are not exempt from public disclosure.

4 (3) The department shall audit each system safety and security
5 program plan at least once every three years. The department may
6 contract with other persons or entities for the performance of duties
7 required by this subsection. The department shall provide at least
8 thirty days' advance notice to the owner or operator of a rail fixed
9 guideway system before commencing the audit. The owner or operator of
10 each rail fixed guideway system shall reimburse the reasonable expenses
11 of the department in carrying out its responsibilities of this
12 subsection within ninety days after receipt of an invoice. The
13 department shall notify the owner or operator of the estimated expenses
14 at least six months in advance of when the department audits the
15 system.

16 (4) In the event of a reportable accident, unacceptable hazardous
17 condition, or security breach, the department shall review the
18 investigation report, corrective action plan, and accompanying
19 implementation schedule, submitted by the owner or operator of the rail
20 fixed guideway system to ensure that it meets the goal of preventing
21 and mitigating a recurrence of the reportable accident, unacceptable
22 hazardous condition, or security breach.

23 (a) The department may, at its option, perform a separate,
24 independent investigation of a reportable accident, unacceptable
25 hazardous condition, or security breach. The department may contract
26 with other persons or entities for the performance of duties required
27 by this subsection.

28 (b) If the department does not concur with the investigation
29 report, corrective action plan, and accompanying implementation
30 schedule, submitted by the owner or operator, the department shall
31 notify that owner or operator in writing within forty-five days of its
32 receipt of the complete investigation report, corrective action plan,
33 and accompanying implementation schedule.

34 (5) The secretary may adopt rules to implement this section and RCW
35 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and
36 81.112.180, including rules establishing procedures and timelines for
37 owners and operators of rail fixed guideway systems to comply with RCW
38 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180

1 and the rules adopted under this section. If noncompliance by an owner
2 or operator of a rail fixed guideway system results in the loss of
3 federal funds to the state of Washington or a political subdivision of
4 the state, the owner or operator is liable to the affected entity or
5 entities for the amount of the lost funds.

6 (6) The department may impose sanctions upon owners and operators
7 of rail fixed guideway systems, but only for failure to meet reasonable
8 deadlines for submission of required reports and audits. The
9 department is expressly prohibited from imposing sanctions for any
10 other purposes, including, but not limited to, differences in format or
11 content of required reports and audits.

12 (7) The department and its employees have no liability arising from
13 the adoption of rules; the review of or concurrence in a system safety
14 and security program plan; the separate, independent investigation of
15 a reportable accident, unacceptable hazardous condition, or security
16 breach; and the review of or concurrence in a corrective action plan
17 for a reportable accident, unacceptable hazardous condition, or
18 security breach.

19 **Sec. 360.** RCW 81.112.180 and 1999 c 202 s 6 are each amended to
20 read as follows:

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

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

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

24 (4) The security section of the safety and security plan required
25 in subsection (1)(d) of this section is exempt from public disclosure
26 under chapter (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created in
27 section 103 of this act). However, the activities and plans as
28 described in subsections (1)(a), (b), and (c), (2), and (3) of this
29 section are not subject to this exemption.

30 **Sec. 361.** RCW 82.32.330 and 2000 c 173 s 1 and 2000 c 106 s 1 are
31 each reenacted and amended to read as follows:

32 (1) For purposes of this section:

33 (a) "Disclose" means to make known to any person in any manner
34 whatever a return or tax information;

35 (b) "Return" means a tax or information return or claim for refund
36 required by, or provided for or permitted under, the laws of this state
37 which is filed with the department of revenue by, on behalf of, or with

1 respect to a person, and any amendment or supplement thereto, including
2 supporting schedules, attachments, or lists that are supplemental to,
3 or part of, the return so filed;

4 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
5 nature, source, or amount of the taxpayer's income, payments, receipts,
6 deductions, exemptions, credits, assets, liabilities, net worth, tax
7 liability deficiencies, overassessments, or tax payments, whether taken
8 from the taxpayer's books and records or any other source, (iii)
9 whether the taxpayer's return was, is being, or will be examined or
10 subject to other investigation or processing, (iv) a part of a written
11 determination that is not designated as a precedent and disclosed
12 pursuant to RCW 82.32.410, or a background file document relating to a
13 written determination, and (v) other data received by, recorded by,
14 prepared by, furnished to, or collected by the department of revenue
15 with respect to the determination of the existence, or possible
16 existence, of liability, or the amount thereof, of a person under the
17 laws of this state for a tax, penalty, interest, fine, forfeiture, or
18 other imposition, or offense: PROVIDED, That data, material, or
19 documents that do not disclose information related to a specific or
20 identifiable taxpayer do not constitute tax information under this
21 section. Except as provided by RCW 82.32.410, nothing in this chapter
22 shall require any person possessing data, material, or documents made
23 confidential and privileged by this section to delete information from
24 such data, material, or documents so as to permit its disclosure;

25 (d) "State agency" means every Washington state office, department,
26 division, bureau, board, commission, or other state agency;

27 (e) "Taxpayer identity" means the taxpayer's name, address,
28 telephone number, registration number, or any combination thereof, or
29 any other information disclosing the identity of the taxpayer; and

30 (f) "Department" means the department of revenue or its officer,
31 agent, employee, or representative.

32 (2) Returns and tax information shall be confidential and
33 privileged, and except as authorized by this section, neither the
34 department of revenue nor any other person may disclose any return or
35 tax information.

36 (3) The foregoing, however, shall not prohibit the department of
37 revenue from:

1 (a) Disclosing such return or tax information in a civil or
2 criminal judicial proceeding or an administrative proceeding:

3 (i) In respect of any tax imposed under the laws of this state if
4 the taxpayer or its officer or other person liable under Title 82 RCW
5 is a party in the proceeding; or

6 (ii) In which the taxpayer about whom such return or tax
7 information is sought and another state agency are adverse parties in
8 the proceeding;

9 (b) Disclosing, subject to such requirements and conditions as the
10 director shall prescribe by rules adopted pursuant to chapter 34.05
11 RCW, such return or tax information regarding a taxpayer to such
12 taxpayer or to such person or persons as that taxpayer may designate in
13 a request for, or consent to, such disclosure, or to any other person,
14 at the taxpayer's request, to the extent necessary to comply with a
15 request for information or assistance made by the taxpayer to such
16 other person: PROVIDED, That tax information not received from the
17 taxpayer shall not be so disclosed if the director determines that such
18 disclosure would compromise any investigation or litigation by any
19 federal, state, or local government agency in connection with the civil
20 or criminal liability of the taxpayer or another person, or that such
21 disclosure would identify a confidential informant, or that such
22 disclosure is contrary to any agreement entered into by the department
23 that provides for the reciprocal exchange of information with other
24 government agencies which agreement requires confidentiality with
25 respect to such information unless such information is required to be
26 disclosed to the taxpayer by the order of any court;

27 (c) Disclosing the name of a taxpayer with a deficiency greater
28 than five thousand dollars and against whom a warrant under RCW
29 82.32.210 has been either issued or filed and remains outstanding for
30 a period of at least ten working days. The department shall not be
31 required to disclose any information under this subsection if a
32 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
33 a warrant that has not been filed; and (iii) has entered a deferred
34 payment arrangement with the department of revenue and is making
35 payments upon such deficiency that will fully satisfy the indebtedness
36 within twelve months;

37 (d) Disclosing the name of a taxpayer with a deficiency greater

1 than five thousand dollars and against whom a warrant under RCW
2 82.32.210 has been filed with a court of record and remains
3 outstanding;

4 (e) Publishing statistics so classified as to prevent the
5 identification of particular returns or reports or items thereof;

6 (f) Disclosing such return or tax information, for official
7 purposes only, to the governor or attorney general, or to any state
8 agency, or to any committee or subcommittee of the legislature dealing
9 with matters of taxation, revenue, trade, commerce, the control of
10 industry or the professions;

11 (g) Permitting the department of revenue's records to be audited
12 and examined by the proper state officer, his or her agents and
13 employees;

14 (h) Disclosing any such return or tax information to a peace
15 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for
16 official purposes. The disclosure may be made only in response to a
17 search warrant, subpoena, or other court order, unless the disclosure
18 is for the purpose of criminal tax enforcement. A peace officer or
19 county prosecuting attorney who receives the return or tax information
20 may disclose that return or tax information only for use in the
21 investigation and a related court proceeding, or in the court
22 proceeding for which the return or tax information originally was
23 sought;

24 (i) Disclosing any such return or tax information to the proper
25 officer of the internal revenue service of the United States, the
26 Canadian government or provincial governments of Canada, or to the
27 proper officer of the tax department of any state or city or town or
28 county, for official purposes, but only if the statutes of the United
29 States, Canada or its provincial governments, or of such other state or
30 city or town or county, as the case may be, grants substantially
31 similar privileges to the proper officers of this state;

32 (j) Disclosing any such return or tax information to the Department
33 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
34 Department of the Treasury, the Department of Defense, the United
35 States Customs Service, the Coast Guard of the United States, and the
36 United States Department of Transportation, or any authorized
37 representative thereof, for official purposes;

1 (k) Publishing or otherwise disclosing the text of a written
2 determination designated by the director as a precedent pursuant to RCW
3 82.32.410;

4 (l) Disclosing, in a manner that is not associated with other tax
5 information, the taxpayer name, entity type, business address, mailing
6 address, revenue tax registration numbers, North American industry
7 classification system or standard industrial classification code of a
8 taxpayer, and the dates of opening and closing of business. This
9 subsection shall not be construed as giving authority to the department
10 to give, sell, or provide access to any list of taxpayers for any
11 commercial purpose;

12 (m) Disclosing such return or tax information that is also
13 maintained by another Washington state or local governmental agency as
14 a public record available for inspection and copying under the
15 provisions of chapter (~~(42.17 RCW)~~) 42.-- RCW (the new chapter created
16 in section 103 of this act) or is a document maintained by a court of
17 record not otherwise prohibited from disclosure;

18 (n) Disclosing such return or tax information to the United States
19 department of agriculture for the limited purpose of investigating food
20 stamp fraud by retailers;

21 (o) Disclosing to a financial institution, escrow company, or title
22 company, in connection with specific real property that is the subject
23 of a real estate transaction, current amounts due the department for a
24 filed tax warrant, judgment, or lien against the real property; or

25 (p) Disclosing to a person against whom the department has asserted
26 liability as a successor under RCW 82.32.140 return or tax information
27 pertaining to the specific business of the taxpayer to which the person
28 has succeeded.

29 (4)(a) The department may disclose return or taxpayer information
30 to a person under investigation or during any court or administrative
31 proceeding against a person under investigation as provided in this
32 subsection (4). The disclosure must be in connection with the
33 department's official duties relating to an audit, collection activity,
34 or a civil or criminal investigation. The disclosure may occur only
35 when the person under investigation and the person in possession of
36 data, materials, or documents are parties to the return or tax
37 information to be disclosed. The department may disclose return or tax
38 information such as invoices, contracts, bills, statements, resale or

1 exemption certificates, or checks. However, the department may not
2 disclose general ledgers, sales or cash receipt journals, check
3 registers, accounts receivable/payable ledgers, general journals,
4 financial statements, expert's workpapers, income tax returns, state
5 tax returns, tax return workpapers, or other similar data, materials,
6 or documents.

7 (b) Before disclosure of any tax return or tax information under
8 this subsection (4), the department shall, through written
9 correspondence, inform the person in possession of the data, materials,
10 or documents to be disclosed. The correspondence shall clearly
11 identify the data, materials, or documents to be disclosed. The
12 department may not disclose any tax return or tax information under
13 this subsection (4) until the time period allowed in (c) of this
14 subsection has expired or until the court has ruled on any challenge
15 brought under (c) of this subsection.

16 (c) The person in possession of the data, materials, or documents
17 to be disclosed by the department has twenty days from the receipt of
18 the written request required under (b) of this subsection to petition
19 the superior court of the county in which the petitioner resides for
20 injunctive relief. The court shall limit or deny the request of the
21 department if the court determines that:

22 (i) The data, materials, or documents sought for disclosure are
23 cumulative or duplicative, or are obtainable from some other source
24 that is more convenient, less burdensome, or less expensive;

25 (ii) The production of the data, materials, or documents sought
26 would be unduly burdensome or expensive, taking into account the needs
27 of the department, the amount in controversy, limitations on the
28 petitioner's resources, and the importance of the issues at stake; or

29 (iii) The data, materials, or documents sought for disclosure
30 contain trade secret information that, if disclosed, could harm the
31 petitioner.

32 (d) The department shall reimburse reasonable expenses for the
33 production of data, materials, or documents incurred by the person in
34 possession of the data, materials, or documents to be disclosed.

35 (e) Requesting information under (b) of this subsection that may
36 indicate that a taxpayer is under investigation does not constitute a
37 disclosure of tax return or tax information under this section.

1 (5) Any person acquiring knowledge of any return or tax information
2 in the course of his or her employment with the department of revenue
3 and any person acquiring knowledge of any return or tax information as
4 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this
5 section, who discloses any such return or tax information to another
6 person not entitled to knowledge of such return or tax information
7 under the provisions of this section, is guilty of a misdemeanor. If
8 the person guilty of such violation is an officer or employee of the
9 state, such person shall forfeit such office or employment and shall be
10 incapable of holding any public office or employment in this state for
11 a period of two years thereafter.

12 **Sec. 362.** RCW 82.32.410 and 2001 c 320 s 10 are each amended to
13 read as follows:

14 (1) The director may designate certain written determinations as
15 precedents.

16 (a) By rule adopted pursuant to chapter 34.05 RCW, the director
17 shall adopt criteria which he or she shall use to decide whether a
18 determination is precedential. These criteria shall include, but not
19 be limited to, whether the determination clarifies an unsettled
20 interpretation of Title 82 RCW or where the determination modifies or
21 clarifies an earlier interpretation.

22 (b) Written determinations designated as precedents by the director
23 shall be made available for public inspection and shall be published by
24 the department.

25 (c) The department shall disclose any written determination upon
26 which it relies to support any assessment of tax, interest, or penalty
27 against such taxpayer, after making the deletions provided by
28 subsection (2) of this section.

29 (2) Before making a written determination available for public
30 inspection under subsection (1) of this section, the department shall
31 delete:

32 (a) The names, addresses, and other identifying details of the
33 person to whom the written determination pertains and of another person
34 identified in the written determination; and

35 (b) Information the disclosure of which is specifically prohibited
36 by any statute applicable to the department of revenue, and the
37 department may also delete other information exempted from disclosure

1 by chapter ((42.17 RCW)) 42.-- RCW (the new chapter created in section
2 103 of this act) or any other statute applicable to the department of
3 revenue.

4 **Sec. 363.** RCW 84.08.210 and 1997 c 239 s 1 are each amended to
5 read as follows:

6 (1) For purposes of this section, "tax information" means
7 confidential income data and proprietary business information obtained
8 by the department in the course of carrying out the duties now or
9 hereafter imposed upon it in this title that has been communicated in
10 confidence in connection with the assessment of property and that has
11 not been publicly disseminated by the taxpayer, the disclosure of which
12 would be either highly offensive to a reasonable person and not a
13 legitimate concern to the public or would result in an unfair
14 competitive disadvantage to the taxpayer.

15 (2) Tax information is confidential and privileged, and except as
16 authorized by this section, neither the department nor any other person
17 may disclose tax information.

18 (3) Subsection (2) of this section, however, does not prohibit the
19 department from:

20 (a) Disclosing tax information to any county assessor or county
21 treasurer;

22 (b) Disclosing tax information in a civil or criminal judicial
23 proceeding or an administrative proceeding in respect to taxes or
24 penalties imposed under this title or Title 82 RCW or in respect to
25 assessment or valuation for tax purposes of the property to which the
26 information or facts relate;

27 (c) Disclosing tax information with the written permission of the
28 taxpayer;

29 (d) Disclosing tax information to the proper officer of the tax
30 department of any state responsible for the imposition or collection of
31 property taxes, or for the valuation of property for tax purposes, if
32 the other state grants substantially similar privileges to the proper
33 officers of this state;

34 (e) Disclosing tax information that is also maintained by another
35 Washington state or local governmental agency as a public record
36 available for inspection and copying under chapter ((42.17 RCW)) 42.--

1 RCW (the new chapter created in section 103 of this act) or is a
2 document maintained by a court of record not otherwise prohibited from
3 disclosure;

4 (f) Disclosing tax information to a peace officer as defined in RCW
5 9A.04.110 or county prosecutor, for official purposes. The disclosure
6 may be made only in response to a search warrant, subpoena, or other
7 court order, unless the disclosure is for the purpose of criminal tax
8 enforcement. A peace officer or county prosecutor who receives the tax
9 information may disclose the tax information only for use in the
10 investigation and a related court proceeding, or in the court
11 proceeding for which the tax information originally was sought; or

12 (g) Disclosing information otherwise available under chapter
13 (~~42.17-RCW~~) 42.-- RCW (the new chapter created in section 103 of this
14 act).

15 (4) A violation of this section constitutes a gross misdemeanor.

16 **Sec. 364.** RCW 84.40.020 and 2001 c 187 s 16 are each amended to
17 read as follows:

18 All real property in this state subject to taxation shall be listed
19 and assessed every year, with reference to its value on the first day
20 of January of the year in which it is assessed. Such listing and all
21 supporting documents and records shall be open to public inspection
22 during the regular office hours of the assessor's office: PROVIDED,
23 That confidential income data is hereby exempted from public inspection
24 as noted in RCW 42.17.260 and 42.17.310 (as recodified by this act).
25 All personal property in this state subject to taxation shall be listed
26 and assessed every year, with reference to its value and ownership on
27 the first day of January of the year in which it is assessed:
28 PROVIDED, That if the stock of goods, wares, merchandise or material,
29 whether in a raw or finished state or in process of manufacture, owned
30 or held by any taxpayer on January 1 of any year does not fairly
31 represent the average stock carried by such taxpayer, such stock shall
32 be listed and assessed upon the basis of the monthly average of stock
33 owned or held by such taxpayer during the preceding calendar year or
34 during such portion thereof as the taxpayer was engaged in business.

35 **Sec. 365.** RCW 90.14.068 and 1997 c 440 s 1 are each amended to
36 read as follows:

1 (1) A new period for filing statements of claim for water rights is
2 established. The filing period shall begin September 1, 1997, and
3 shall end at midnight June 30, 1998. Each person or entity claiming
4 under state law a right to withdraw or divert and beneficially use
5 surface water under a right that was established before the effective
6 date of water code established by chapter 117, Laws of 1917, and any
7 person claiming under state law a right to withdraw and beneficially
8 use ground water under a right that was established before the
9 effective date of the ground water code established by chapter 263,
10 Laws of 1945, shall register the claim with the department during the
11 filing period unless the claim has been filed in the state water rights
12 claims registry before July 27, 1997. A person who claims such a right
13 and fails to register the claim as required is conclusively deemed to
14 have waived and relinquished any right, title, or interest in the
15 right. A statement filed during this filing period shall be filed as
16 provided in RCW 90.14.051 and 90.14.061 and shall be subject to the
17 provisions of this chapter regarding statements of claim. This
18 reopening of the period for filing statements of claim shall not affect
19 or impair in any respect whatsoever any water right existing prior to
20 July 27, 1997. A water right embodied in a statement of claim filed
21 under this section is subordinate to any water right embodied in a
22 permit or certificate issued under chapter 90.03 or 90.44 RCW prior to
23 the date the statement of claim is filed with the department and is
24 subordinate to any water right embodied in a statement of claim filed
25 in the water rights claims registry before July 27, 1997.

26 (2) The department of ecology shall, at least once each week during
27 the month of August 1997 and at least once each month during the filing
28 period, publish a notice regarding this new filing period in newspapers
29 of general circulation in the various regions of the state. The notice
30 shall contain the substance of the following notice:

31 WATER RIGHTS NOTICE

32 Each person or entity claiming a right to withdraw or divert
33 and beneficially use surface water under a right that was
34 established before June 7, 1917, or claiming a right to
35 withdraw and beneficially use ground water under a right that
36 was established before June 7, 1945, under the laws of the
37 state of Washington must register the claim with the department

1 of ecology, Olympia, Washington. The claim must be registered
2 on or after September 1, 1997, and not later than five o'clock
3 on June 30, 1998.

4 FAILURE TO REGISTER THE CLAIM
5 WILL RESULT IN A WAIVER AND
6 RELINQUISHMENT OF THE WATER
7 RIGHT OR CLAIMED WATER RIGHT

8 Registering a claim is NOT required for:

9 1. A water right that is based on the authority of a permit or
10 certificate issued by the department of ecology or one of its
11 predecessors;

12 2. A water right that is based on the exemption from permitting
13 requirements provided by RCW 90.44.050 for certain very limited
14 uses of ground water; or

15 3. A water right that is based on a statement of claim that has
16 previously been filed in the state's water rights claims
17 registry during other registration periods.

18 For further information, for a copy of the law establishing
19 this filing period, and for an explanation of the law and its
20 requirements, contact the department of ecology, Olympia,
21 Washington.

22 The department shall also prepare, make available to the public,
23 and distribute to the communications media information describing the
24 types of rights for which statements of claim need not be filed, the
25 effect of filing, the effect of RCW 90.14.071, and other information
26 relevant to filings and statements of claim.

27 (3) The department of ecology shall ensure that employees of the
28 department are readily available to respond to inquiries regarding
29 filing statements of claim and that all of the information the
30 department has at its disposal that is relevant to an inquiry regarding
31 a particular potential claim, including information regarding other
32 rights and claims in the vicinity of the potentially claimed right, is
33 available to the person making the inquiry. The department shall
34 dedicate additional staff in each of the department's regional offices

1 and in the department's central office to ensure that responses and
2 information are provided in a timely manner during each of the business
3 days during the month of August 1997 and during the new filing period.

4 (4) To assist the department in avoiding unnecessary duplication,
5 the department shall provide to a requestor, within ten working days of
6 receiving the request, the records of any water right claimed, listed,
7 recorded, or otherwise existing in the records of the department or its
8 predecessor agencies, including any report of a referee in a water
9 rights adjudication. This information shall be provided as required by
10 this subsection if the request is provided in writing from the owner of
11 the water right or from the holder of a possessory interest in any real
12 property for water right records associated with the property or if the
13 requestor is an attorney for such an owner. The information regarding
14 water rights in the area served by a regional office of the department
15 shall also be provided within ten working days to any requestor who
16 requests to review the information in person in the department's
17 regional office. The information held by the headquarters office of
18 the department shall also be provided within ten working days to any
19 requestor who requests to review the information in person in the
20 department's headquarters office. The requirements of this subsection
21 that records and information be provided to requestors within ten
22 working days may not be construed as limiting in any manner the
23 obligations of the department to provide public access to public
24 records as required by chapter ((42.17 RCW)) 42.-- RCW (the new chapter
25 created in section 103 of this act).

26 (5) This section does not apply to claims for the use of ground
27 water withdrawn in an area that is, during the period established by
28 subsection (2) of this section, the subject of a general adjudication
29 proceeding for water rights in superior court under RCW 90.03.110
30 through 90.03.245 and the proceeding applies to ground water rights.
31 This section does not apply to claims for the use of surface water
32 withdrawn in an area that is, during the period established by
33 subsection (2) of this section, the subject of a general adjudication
34 proceeding for water rights in superior court under RCW 90.03.110
35 through 90.03.245 and the proceeding applies to surface water rights.

36 (6) This section does not apply to claims for the use of water in
37 a ground water area or subarea for which a management program adopted

1 by the department by rule and in effect on July 27, 1997, establishes
2 acreage expansion limitations for the use of ground water.

3 **Sec. 366.** RCW 90.80.135 and 2001 c 237 s 18 are each amended to
4 read as follows:

5 (1) A board is subject to the requirements of chapter ((42.17-RCW))
6 42.-- RCW (the new chapter created in section 103 of this act). Each
7 board must establish and maintain records of its proceedings and
8 determinations. While in the possession of the board, all such records
9 must be made available for inspection and copies must be provided to
10 the public on request under the provisions of chapter ((42.17-RCW))
11 42.-- RCW (the new chapter created in section 103 of this act).

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-RCW)) 42.-- RCW
18 (the new chapter created in section 103 of this act) is transferred to
19 the department.

20 **PART III**
21 **PUBLIC DISCLOSURE EXEMPTIONS**

22 NEW SECTION. **Sec. 401.** The purpose of sections 402 through 429 of
23 this act is to reorganize the public inspection and copying exemptions
24 in RCW 42.17.310 through 42.17.31921 by creating smaller, discrete code
25 sections organized by subject matter. The legislature does not intend
26 that this act effectuate any substantive change to any public
27 inspection and copying exemption in the Revised Code of Washington.

28 **Sec. 402.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
29 each reenacted and amended to read as follows:

30 (1) ((The following are exempt from public inspection and copying:
31 (a) Personal information in any files maintained for students in
32 public schools, patients or clients of public institutions or public
33 health agencies, or welfare recipients.

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

4 ~~(c) Information required of any taxpayer in connection with the~~
5 ~~assessment or collection of any tax if the disclosure of the~~
6 ~~information to other persons would (i) be prohibited to such persons by~~
7 ~~RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the~~
8 ~~taxpayer's right to privacy or result in unfair competitive~~
9 ~~disadvantage to the taxpayer.~~

10 ~~(d) Specific intelligence information and specific investigative~~
11 ~~records compiled by investigative, law enforcement, and penology~~
12 ~~agencies, and state agencies vested with the responsibility to~~
13 ~~discipline members of any profession, the nondisclosure of which is~~
14 ~~essential to effective law enforcement or for the protection of any~~
15 ~~person's right to privacy.~~

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

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

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

35 ~~(h) Valuable formulae, designs, drawings, computer source code or~~
36 ~~object code, and research data obtained by any agency within five years~~
37 ~~of the request for disclosure when disclosure would produce private~~
38 ~~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 investigative, law
2 enforcement, and crime victim information is exempt from public
3 inspection and copying under this chapter:

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

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

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

25 (4) License applications under RCW 9.41.070; copies of license
26 applications or information on the applications may be released to law
27 enforcement or corrections agencies; and

28 (5) Information revealing the identity of child victims of sexual
29 assault who are under age eighteen. Identifying information means the
30 child victim's name, address, location, photograph, and in cases in
31 which the child victim is a relative or stepchild of the alleged
32 perpetrator, identification of the relationship between the child and
33 the alleged perpetrator.

34 NEW SECTION. **Sec. 405.** The following employment and licensing
35 information is exempt from public inspection and copying under this
36 chapter:

1 (1) Test questions, scoring keys, and other examination data used
2 to administer a license, employment, or academic examination;

3 (2) All applications for public employment, including the names of
4 applicants, resumes, and other related materials submitted with respect
5 to an applicant;

6 (3) The residential addresses or residential telephone numbers of
7 employees or volunteers of a public agency that are held by any public
8 agency in personnel records, public employment related records, or
9 volunteer rosters, or are included in any mailing list of employees or
10 volunteers of any public agency;

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

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

21 (6) Except as provided in RCW 47.64.220, salary and employee
22 benefit information collected under RCW 47.64.220(1) and described in
23 RCW 47.64.220(2).

24 NEW SECTION. **Sec. 406.** Except as provided by chapter 8.26 RCW,
25 the contents of real estate appraisals, made for or by any agency
26 relative to the acquisition or sale of property, until the project or
27 prospective sale is abandoned or until such time as all of the property
28 has been acquired or the property to which the sale appraisal relates
29 is sold, are exempt from disclosure under this chapter. In no event
30 may disclosure be denied for more than three years after the appraisal.

31 NEW SECTION. **Sec. 407.** The following financial, commercial, and
32 proprietary information is exempt from disclosure under this chapter:

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

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

6 (3) Financial and commercial information and records supplied by
7 private persons pertaining to export services provided under chapter
8 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export
9 projects under RCW 43.23.035;

10 (4) Financial and commercial information and records supplied by
11 businesses or individuals during application for loans or program
12 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
13 or during application for economic development loans or program
14 services provided by any local agency;

15 (5) Financial information, business plans, examination reports, and
16 any information produced or obtained in evaluating or examining a
17 business and industrial development corporation organized or seeking
18 certification under chapter 31.24 RCW;

19 (6) Financial and commercial information supplied to the state
20 investment board by any person when the information relates to the
21 investment of public trust or retirement funds and when disclosure
22 would result in loss to such funds or in private loss to the providers
23 of this information;

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

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

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

32 (10) Financial information, including but not limited to account
33 numbers and values, and other identification numbers supplied by or on
34 behalf of a person, firm, corporation, limited liability company,
35 partnership, or other entity related to an application for a liquor
36 license, gambling license, or lottery retail license;

37 (11) Proprietary data, trade secrets, or other information that
38 relates to: (a) A vendor's unique methods of conducting business; (b)

1 data unique to the product or services of the vendor; or (c)
2 determining prices or rates to be charged for services, submitted by
3 any vendor to the department of social and health services for purposes
4 of the development, acquisition, or implementation of state purchased
5 health care as defined in RCW 41.05.011; and

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

8 (i) Financial and proprietary information collected from any person
9 and provided to the department of community, trade, and economic
10 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

11 (ii) Financial or proprietary information collected from any person
12 and provided to the department of community, trade, and economic
13 development or the office of the governor in connection with the
14 siting, recruitment, expansion, retention, or relocation of that
15 person's business and until a siting decision is made, identifying
16 information of any person supplying information under this subsection
17 and the locations being considered for siting, relocation, or expansion
18 of a business;

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

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

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

29 NEW SECTION. **Sec. 408.** Preliminary drafts, notes,
30 recommendations, and intra-agency memorandums in which opinions are
31 expressed or policies formulated or recommended are exempt under this
32 chapter, except that a specific record is not exempt when publicly
33 cited by an agency in connection with any agency action.

34 NEW SECTION. **Sec. 409.** Records that are relevant to a controversy
35 to which an agency is a party but which records would not be available

1 to another party under the rules of pretrial discovery for causes
2 pending in the superior courts are exempt from disclosure under this
3 chapter.

4 NEW SECTION. **Sec. 410.** Records, maps, or other information
5 identifying the location of archaeological sites in order to avoid the
6 looting or depredation of such sites are exempt from disclosure under
7 this chapter.

8 NEW SECTION. **Sec. 411.** Any library record, the primary purpose of
9 which is to maintain control of library materials, or to gain access to
10 information, that discloses or could be used to disclose the identity
11 of a library user is exempt from disclosure under this chapter.

12 NEW SECTION. **Sec. 412.** The following educational information is
13 exempt from disclosure under this chapter:

14 (1) Financial disclosures filed by private vocational schools under
15 chapters 28B.85 and 28C.10 RCW;

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

20 (3) Individually identifiable information received by the work
21 force training and education coordinating board for research or
22 evaluation purposes; and

23 (4) Except for public records as defined in RCW 40.14.040, any
24 records or documents obtained by a state college, university, library,
25 or archive through or concerning any gift, grant, conveyance, bequest,
26 or devise, the terms of which restrict or regulate public access to
27 those records or documents.

28 NEW SECTION. **Sec. 413.** The following information relating to
29 public utilities and transportation is exempt from disclosure under
30 this chapter:

31 (1) Records filed with the utilities and transportation commission
32 or attorney general under RCW 80.04.095 that a court has determined are
33 confidential under RCW 80.04.095;

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

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

14 (4) The personally identifying information of current or former
15 participants or applicants in a paratransit or other transit service
16 operated for the benefit of persons with disabilities or elderly
17 persons;

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

28 (6) Records of any person that belong to a public utility district
29 or a municipally owned electrical utility, unless the law enforcement
30 authority provides the public utility district or municipally owned
31 electrical utility with a written statement in which the authority
32 states that it suspects that the particular person to whom the records
33 pertain has committed a crime and the authority has a reasonable belief
34 that the records could determine or help determine whether the
35 suspicion might be true. Information obtained in violation of this
36 subsection is inadmissible in any criminal proceeding; and

37 (7) Any information obtained by governmental agencies that is
38 collected by the use of a motor carrier intelligent transportation

1 system or any comparable information equipment attached to a truck,
2 tractor, or trailer; however, the information may be given to other
3 governmental agencies or the owners of the truck, tractor, or trailer
4 from which the information is obtained. As used in this subsection,
5 "motor carrier" has the same definition as provided in RCW 81.80.010.

6 NEW SECTION. **Sec. 414.** Membership lists or lists of members or
7 owners of interests of units in timeshare projects, subdivisions,
8 camping resorts, condominiums, land developments, or common-interest
9 communities affiliated with such projects, regulated by the department
10 of licensing, in the files or possession of the department are exempt
11 from disclosure under this chapter.

12 NEW SECTION. **Sec. 415.** (1) The federal social security number of
13 individuals governed under chapter 18.130 RCW maintained in the files
14 of the department of health is exempt from disclosure under this
15 chapter. The exemption in this section does not apply to requests made
16 directly to the department from federal, state, and local agencies of
17 government, and national and state licensing, credentialing,
18 investigatory, disciplinary, and examination organizations.

19 (2) The current residential address and current residential
20 telephone number of a health care provider governed under chapter
21 18.130 RCW maintained in the files of the department are exempt from
22 disclosure under this chapter, if the provider requests that this
23 information be withheld from public inspection and copying, and
24 provides to the department of health an accurate alternate or business
25 address and business telephone number. The current residential address
26 and residential telephone number of a health care provider governed
27 under RCW 18.130.040 maintained in the files of the department of
28 health shall automatically be withheld from public inspection and
29 copying unless the provider specifically requests the information be
30 released, and except as provided for under RCW 42.17.260(9) (as
31 recodified by this act).

32 NEW SECTION. **Sec. 416.** (1) The following health care information
33 is exempt from disclosure under this chapter:

34 (a) Information obtained by the board of pharmacy as provided in
35 RCW 69.45.090;

1 (b) Information obtained by the board of pharmacy or the department
2 of health and its representatives as provided in RCW 69.41.044,
3 69.41.280, and 18.64.420;

4 (c) Information and documents created specifically for, and
5 collected and maintained by a quality improvement committee under RCW
6 43.70.510 or 70.41.200, or by a peer review committee under RCW
7 4.24.250, regardless of which agency is in possession of the
8 information and documents;

9 (d)(i) Proprietary financial and commercial information that the
10 submitting entity, with review by the department of health,
11 specifically identifies at the time it is submitted and that is
12 provided to or obtained by the department of health in connection with
13 an application for, or the supervision of, an antitrust exemption
14 sought by the submitting entity under RCW 43.72.310;

15 (ii) If a request for such information is received, the submitting
16 entity must be notified of the request. Within ten business days of
17 receipt of the notice, the submitting entity shall provide a written
18 statement of the continuing need for confidentiality, which shall be
19 provided to the requester. Upon receipt of such notice, the department
20 of health shall continue to treat information designated under this
21 subsection (1)(d) as exempt from disclosure;

22 (iii) If the requester initiates an action to compel disclosure
23 under this chapter, the submitting entity must be joined as a party to
24 demonstrate the continuing need for confidentiality;

25 (e) Records of the entity obtained in an action under RCW 18.71.300
26 through 18.71.340;

27 (f) Except for published statistical compilations and reports
28 relating to the infant mortality review studies that do not identify
29 individual cases and sources of information, any records or documents
30 obtained, prepared, or maintained by the local health department for
31 the purposes of an infant mortality review conducted by the department
32 of health under RCW 70.05.170; and

33 (g) Complaints filed under chapter 18.130 RCW after July 27, 1997,
34 to the extent provided in RCW 18.130.095(1).

35 (2) Chapter 70.02 RCW applies to public inspection and copying of
36 health care information of patients.

1 NEW SECTION. **Sec. 417.** Client records maintained by an agency
2 that is a domestic violence program as defined in RCW 70.123.020 or
3 70.123.075 or a rape crisis center as defined in RCW 70.125.030 are
4 exempt from disclosure under this chapter.

5 NEW SECTION. **Sec. 418.** The following information relating to
6 agriculture and livestock is exempt from disclosure under this chapter:

7 (1) Business-related information under RCW 15.86.110;

8 (2) Information provided under RCW 15.54.362;

9 (3) Production or sales records required to determine assessment
10 levels and actual assessment payments to commodity boards and
11 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
12 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the
13 department of agriculture to administer these chapters or the
14 department's programs;

15 (4) Consignment information contained on phytosanitary certificates
16 issued by the department of agriculture under chapters 15.13, 15.49,
17 and 15.17 RCW or federal phytosanitary certificates issued under
18 C.F.R. 353 through cooperative agreements with the animal and plant
19 health inspection service, United States department of agriculture, or
20 on applications for phytosanitary certification required by the
21 department of agriculture;

22 (5) Financial and commercial information and records supplied by
23 persons (a) to the department of agriculture for the purpose of
24 conducting a referendum for the potential establishment of a commodity
25 board or commission; or (b) to the department of agriculture or
26 commodity boards or commissions formed under chapter 15.24, 15.28,
27 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, or 16.67 RCW with respect to
28 domestic or export marketing activities or individual producer's
29 production information;

30 (6) Except under RCW 15.19.080, information obtained regarding the
31 purchases, sales, or production of an individual American ginseng
32 grower or dealer;

33 (7) Information that can be identified to a particular business and
34 that is collected under section 3(1), chapter 235, Laws of 2002; and

35 (8) Financial statements provided under RCW 16.65.030(1)(d).

1 NEW SECTION. **Sec. 419.** Names of individuals residing in emergency
2 or transitional housing that are furnished to the department of revenue
3 or a county assessor in order to substantiate a claim for property tax
4 exemption under RCW 84.36.043 are exempt from disclosure under this
5 chapter.

6 NEW SECTION. **Sec. 420.** The following information relating to
7 insurance and financial institutions is exempt from disclosure under
8 this chapter:

9 (1) Records maintained by the board of industrial insurance appeals
10 that are related to appeals of crime victims' compensation claims filed
11 with the board under RCW 7.68.110;

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

19 (3) The names and individual identification data of all viators
20 regulated by the insurance commissioner under chapter 48.102 RCW;

21 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

22 (5) Information provided under RCW 48.05.510 through 48.05.535,
23 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600
24 through 48.46.625;

25 (6) Information gathered under chapter 19.85 RCW or RCW 34.05.328
26 that can be identified to a particular business;

27 (7) Examination reports and information obtained by the department
28 of financial institutions from banks under RCW 30.04.075, from savings
29 banks under RCW 32.04.220, from savings and loan associations under RCW
30 33.04.110, from credit unions under RCW 31.12.565, from check cashers
31 and sellers under RCW 31.45.030(3), and from securities brokers and
32 investment advisers under RCW 21.20.100, all of which is confidential
33 and privileged information;

34 (8) Information provided to the insurance commissioner under RCW
35 48.110.040(3);

36 (9) Documents, materials, or information obtained by the insurance

1 commissioner under RCW 48.02.065, all of which are confidential and
2 privileged; and

3 (10) Confidential proprietary and trade secret information provided
4 to the commissioner under RCW 48.31C.020 through 48.31C.050 and
5 48.31C.070.

6 NEW SECTION. **Sec. 421.** Records maintained by the employment
7 security department and subject to chapter 50.13 RCW if provided to
8 another individual or organization for operational, research, or
9 evaluation purposes are exempt from disclosure under this chapter.

10 NEW SECTION. **Sec. 422.** The following information relating to
11 security is exempt from disclosure under this chapter:

12 (1) Those portions of records assembled, prepared, or maintained to
13 prevent, mitigate, or respond to criminal terrorist acts, which are
14 acts that significantly disrupt the conduct of government or of the
15 general civilian population of the state or the United States and that
16 manifest an extreme indifference to human life, the public disclosure
17 of which would have a substantial likelihood of threatening public
18 safety, consisting of:

19 (a) Specific and unique vulnerability assessments or specific and
20 unique response or deployment plans, including compiled underlying data
21 collected in preparation of or essential to the assessments, or to the
22 response or deployment plans; and

23 (b) Records not subject to public disclosure under federal law that
24 are shared by federal or international agencies, and information
25 prepared from national security briefings provided to state or local
26 government officials related to domestic preparedness for acts of
27 terrorism;

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

35 (3) Information compiled by school districts or schools in the

1 development of their comprehensive safe school plans under RCW
2 28A.320.125, to the extent that they identify specific vulnerabilities
3 of school districts and each individual school;

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

10 (5) The security section of transportation system safety and
11 security program plans required under RCW 35.21.228, 35A.21.300,
12 36.01.210, 36.57.120, 36.57A.170, and 81.112.180.

13 NEW SECTION. **Sec. 423.** The following information relating to fish
14 and wildlife is exempt from disclosure under this chapter:

15 (1) 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 (2) 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. As used in this subsection, sensitive wildlife data
26 includes:

27 (a) The nesting sites or specific locations of endangered species
28 designated under RCW 77.12.020, or threatened or sensitive species
29 classified by rule of the department of fish and wildlife;

30 (b) Radio frequencies used in, or locational data generated by,
31 telemetry studies; or

32 (c) Other location data that could compromise the viability of a
33 specific fish or wildlife population, and where at least one of the
34 following criteria are met:

35 (i) The species has a known commercial or black market value;

36 (ii) There is a history of malicious take of that species; or

1 (iii) There is a known demand to visit, take, or disturb, and the
2 species behavior or ecology renders it especially vulnerable or the
3 species has an extremely limited distribution and concentration; and

4 (3) The personally identifying information of persons who acquire
5 recreational licenses under RCW 77.32.010 or commercial licenses under
6 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
7 department, and type of license, endorsement, or tag; however, the
8 department of fish and wildlife may disclose personally identifying
9 information to:

10 (a) Government agencies concerned with the management of fish and
11 wildlife resources;

12 (b) The department of social and health services, child support
13 division, and to the department of licensing in order to implement RCW
14 77.32.014 and 46.20.291; and

15 (c) Law enforcement agencies for the purpose of firearm possession
16 enforcement under RCW 9.41.040.

17 NEW SECTION. **Sec. 424.** (1) Discharge papers of a veteran of the
18 armed forces of the United States filed at the office of the county
19 auditor before July 1, 2002, that have not been commingled with other
20 recorded documents are exempt from disclosure under this chapter.
21 These records will be available only to the veteran, the veteran's next
22 of kin, a deceased veteran's properly appointed personal representative
23 or executor, a person holding that veteran's general power of attorney,
24 or to anyone else designated in writing by that veteran to receive the
25 records.

26 (2) Discharge papers of a veteran of the armed forces of the United
27 States filed at the office of the county auditor before July 1, 2002,
28 that have been commingled with other records are exempt from disclosure
29 under this chapter, if the veteran has recorded a "request for
30 exemption from public disclosure of discharge papers" with the county
31 auditor. If such a request has been recorded, these records may be
32 released only to the veteran filing the papers, the veteran's next of
33 kin, a deceased veteran's properly appointed personal representative or
34 executor, a person holding the veteran's general power of attorney, or
35 anyone else designated in writing by the veteran to receive the
36 records.

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

7 (4) For the purposes of this section, next of kin of deceased
8 veterans have the same rights to full access to the record. Next of
9 kin are the veteran's widow or widower who has not remarried, son,
10 daughter, father, mother, brother, and sister.

11 NEW SECTION. **Sec. 425.** Information in an application for
12 licensing or a small loan endorsement under chapter 31.45 RCW regarding
13 the personal residential address, telephone number of the applicant, or
14 financial statement is exempt from disclosure under this chapter.

15 NEW SECTION. **Sec. 426.** All records obtained and all reports
16 produced as required by state fireworks law, chapter 70.77 RCW, are
17 exempt from disclosure under this chapter.

18 NEW SECTION. **Sec. 427.** All records, documents, data, and other
19 materials obtained under the requirements of RCW 72.09.115 from an
20 existing correctional industries class I work program participant or an
21 applicant for a proposed new or expanded class I correctional
22 industries work program are exempt from public disclosure under this
23 chapter.

24 NEW SECTION. **Sec. 428.** Information relating to the following
25 programs and reports, which have no ongoing activity, is exempt from
26 disclosure under this chapter:

27 (1) Railroad company contracts filed prior to July 28, 1991, with
28 the utilities and transportation commission under RCW 81.34.070, except
29 that the summaries of the contracts are open to public inspection and
30 copying as otherwise provided by this chapter;

31 (2) Personal information in files maintained in a data base created
32 under RCW 43.07.360; and

33 (3) Data collected by the department of social and health services

1 for the reports required by section 8, chapter 231, Laws of 2003,
2 except as compiled in the aggregate and reported to the senate and
3 house of representatives.

4 NEW SECTION. **Sec. 429.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 42.17.312 (Medical records--Health care information) and
7 1991 c 335 s 902;

8 (2) RCW 42.17.313 (Application for license or small loan
9 endorsement under chapter 31.45 RCW--Certain information exempt) and
10 1995 c 18 s 8 & 1991 c 355 s 22;

11 (3) RCW 42.17.314 (Electrical utility records, request by law
12 enforcement agency) and 1987 c 403 s 6;

13 (4) RCW 42.17.315 (Certain records obtained by colleges,
14 universities, libraries, or archives exempt) and 1975 1st ex.s. c 294
15 s 22;

16 (5) RCW 42.17.316 (Certain records of impaired physician program
17 exempt) and 2001 c 64 s 3, 1994 sp.s. c 9 s 726, & 1987 c 416 s 7;

18 (6) RCW 42.17.317 (Information on commercial fertilizer
19 distribution exempt) and 1987 c 45 s 15;

20 (7) RCW 42.17.318 (Information on concealed pistol licenses exempt)
21 and 1988 c 219 s 2;

22 (8) RCW 42.17.319 (Certain records of department of community,
23 trade, and economic development exempt) and 2001 c 87 s 1, 1999 c 150
24 s 1, 1993 c 280 s 36, & 1989 c 312 s 7;

25 (9) RCW 42.17.31901 (Identity of child victims of sexual assault
26 exempt) and 1992 c 188 s 6;

27 (10) RCW 42.17.31902 (Infant mortality review) and 1992 c 179 s 2;

28 (11) RCW 42.17.31903 (Identification of viators regulated by the
29 insurance commissioner exempt) and 1995 c 161 s 15;

30 (12) RCW 42.17.31904 (Insurance antifraud plans exempt) and 1995 c
31 285 s 15;

32 (13) RCW 42.17.31905 (Insurance information on certain material
33 transactions exempt) and 1995 c 86 s 25;

34 (14) RCW 42.17.31906 (Fireworks records exempt) and 1995 c 61 s 30;

35 (15) RCW 42.17.31907 (Agricultural business and commodity board and
36 commission records exempt) and 2002 c 313 s 66, 2001 c 314 s 18, & 1996
37 c 80 s 3;

1 (16) RCW 42.17.31908 (Business information gathered under certain
2 regulatory activities exempt) and 1996 c 102 s 1;

3 (17) RCW 42.17.31909 (American ginseng growers or dealers--Certain
4 information exempt) and 1998 c 154 s 33 & 1996 c 188 s 6;

5 (18) RCW 42.17.31910 (Uniform Disciplinary Act complaints exempt)
6 and 1997 c 270 s 2;

7 (19) RCW 42.17.31911 (Examination reports and information from
8 financial institutions exempt) and 1997 c 258 s 1;

9 (20) RCW 42.17.31912 (Motor carrier information systems) and 1999
10 c 146 s 1;

11 (21) RCW 42.17.31913 (Marine employees salary surveys) and 1999 c
12 256 s 2;

13 (22) RCW 42.17.31914 (Rail fixed guideway system--Safety and
14 security program plan) and 1999 c 202 s 8;

15 (23) RCW 42.17.31915 (Service contract providers--Financial reports
16 exempt) and 1999 c 112 s 18;

17 (24) RCW 42.17.31916 (Insurance information) and 2001 c 57 s 2;

18 (25) RCW 42.17.31917 (Insurance information--Proprietary or trade
19 secret) and 2001 c 179 s 14;

20 (26) RCW 42.17.31918 (Agriculture records exempt--Apple merchants)
21 and 2002 c 235 s 4;

22 (27) RCW 42.17.31919 (Public livestock market information exempt)
23 and 2003 c 326 s 91;

24 (28) RCW 42.17.31920 (Department of social and health services
25 reports for section 8, chapter 231, Laws of 2003) and 2004 c 142 s 16;
26 and

27 (29) RCW 42.17.31921 (Correctional industries class I work program
28 information) and 2004 c 167 s 9.

29 **PART IV**

30 **MISCELLANEOUS PROVISIONS**

31 NEW SECTION. **Sec. 501.** Part headings used in this act are not any
32 part of the law.

33 NEW SECTION. **Sec. 502.** This act takes effect July 1, 2006.

1 NEW SECTION. **Sec. 503.** Sections 1, 101, 102, and 403 through 428
2 of this act are each added to the new chapter created in section 103 of
3 this act.

--- END ---