

NINETY FIFTH DAY

MORNING SESSION

Senate Chamber, Olympia
Thursday, April 13, 2017

The Senate was called to order at 10:01 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all Senators were present.

The U.S. Air Force Base McChord Composite Squadron Color Guard composed of Cadet Senior Airman Miss Myrrin Chick; Airman Mr. Christopher Fisher; Senior Airman Mr. Leavitt Rushton; Airman First Class Miss Emily West; and Technical Sergeant Miss Tara Wonsler; presented the Colors.

Mr. Bryant Hennessy led the Senate in the Pledge of Allegiance.

The prayer was offered by Chaplain Lieutenant Colonel Dave Franklin of the Pacific Region Chaplain Corps.

Washington State Poet Laureate, Dr. Todd Marshall recited the following:

Maps of Washington
Number in the thousands
Unique and folded inside each citizen's
Heart. We live in Washington
And Washington lives in us.

A Place to Love by Claudia Castro Luna, Seattle Civic Poet Laureate.

Presented by Dr. Todd Marshall, Washington State Poet Laureate

MOTION

On motion of Senator Fain, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fain, the Senate advanced to the fourth order of business.

MESSAGES FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:
The House has passed:

SUBSTITUTE HOUSE BILL NO. 2182,
and the same is herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 12, 2017

MR. PRESIDENT:
The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5198,
SENATE BILL NO. 5674,
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Fain, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5923 by Senators Mullet, Palumbo, Braun, Pedersen and Carlyle

AN ACT Relating to the Washington higher education tuition payment and college savings programs; and amending RCW 28B.95.020, 28B.95.030, 28B.95.045, 28B.95.060, and 28B.95.092.

Referred to Committee on Higher Education.

SB 5924 by Senators Fain and Keiser

AN ACT Relating to exchanging charitable, educational, penal, and reformatory institutions trust lands for community and technical college forest reserve lands; amending RCW 79.02.420; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Fain, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

On motion of Senator Keiser, the poem read by Dr. Todd Marshall, Washington State Poet Laureate, was spread upon the journal.

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION
8616

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By Senators Honeyford, Billig, Chase, Hasegawa, Conway, Becker, Warnick, Mullet, King, Miloscia, Angel, Hobbs, Baumgartner, Takko, Braun, Nelson, O'Ban, Rivers, Brown, Cleveland, Schoesler, Padden, Rolfes, Fain, Bailey, Sheldon, Short, and Pearson

WHEREAS, The Civil Air Patrol was commissioned December 1, 1941, just days before the attack on Pearl Harbor, for the purpose of liaison flying and interdiction of infiltrators on the east coast and southern border of the United States; and from then on the Civil Air Patrol insignia, a red three-bladed propeller in the Civil Defense white-triangle-in-blue-circle, began appearing; and

WHEREAS, The Civil Air Patrol has now been in commission for 75 years; and

WHEREAS, When German submarines began to prey on American ships, the Civil Air Patrol's mission grew to include a 1,000-member coastal patrol, 64 of whom died in service and 26 of whom were lost at sea; and

WHEREAS, After a crew was forced to watch in vain as a grounded submarine off Cape Canaveral, Florida escaped before the military arrived, Civil Air Patrol planes were issued bombs and depth charges, and thereafter the Civil Air Patrol coastal patrol flew 24 million miles and found 173 submarines, ultimately attacking 57 and hitting 10; and

WHEREAS, On April 28, 1943, by presidential executive order, the Civil Air Patrol became an auxiliary of the United States Army Air Forces, and several months later the Germans withdrew coastal U-boat operations "because of those damned little red and yellow airplanes"; and

WHEREAS, During the postwar years, the Civil Air Patrol was put to work in search and rescue missions, saving the United States millions of dollars in operational costs as the only organization with the equipment and training to perform this vital job, with military aircraft being far too expensive to operate and flying too fast to accurately spot downed planes and personnel; and

WHEREAS, During the deadly 2014 highway 530 mudslide in Darrington, Washington, the Civil Air Patrol flew vital supplies to areas unreachable by heavier aircraft; and ground teams helped to evacuate cities and towns, maintained the Temporary Flight Restriction over the area, and provided high-bird communications for other agencies; and

WHEREAS, The Civil Air Patrol's National Cell Phone Forensics Team and National Radar Analysis Team, which used cutting-edge technology to complement the efforts of searchers in the air and on the ground for missing airplanes and individuals, were credited by the Air Force Rescue Coordination Center with saving 70 lives in fiscal year 2016; and

WHEREAS, The Civil Air Patrol Cadet Program, celebrating its 75th year in 2017, has over 24,000 participants between the ages of 12 and 20, one of its major attractions being its aerospace program, which provides both classroom and practical instruction in flight and rocketry, and offers each cadet the opportunity to participate in orientation flights in both powered and glider aircraft while learning search and rescue techniques and other valuable skills, emphasizing military history, leadership, science, technology, engineering, and math education, and "service before self" to members' community, state, and nation; and

WHEREAS, Today's Civil Air Patrol continues its service and commitment to our state and country with three primary missions: Aerospace education, cadet programs, and emergency services; and

WHEREAS, The Washington Wing's commitment to service includes three nationally recognized leaders: 2014 Chaplain of the

Year, (Lt. Col.) Dave Franklin; 2015 Legislative Squadron Commander of the Year, Senator (Lt. Col.) Jim Honeyford; and 2016 Public Affairs Officer of the Year, (Capt.) Jessica Jerwa, along with the many officers and cadets; and

WHEREAS, In Washington State alone, the Civil Air Patrol is composed of approximately 744 senior members and 626 cadets, adding up to 144 volunteer aircrew personnel and 779 emergency responders who, in 2016 alone, flew their 14 aircraft 1,537 hours in service to our state, a value of 4.9 million dollars in volunteer hours; and

WHEREAS, The McChord Composite Squadron Color Guard, located at McChord Field, Joint Base Lewis-McChord and comprised of youth Cadet members, have volunteered their time to represent the Civil Air Patrol's state headquarters while presenting the colors;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the Washington State wing of the Civil Air Patrol for its courageous and unwavering dedication to our citizens; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Colonel James P. Furlong, Commander of the Civil Air Patrol Washington Wing.

Senators Honeyford, Cleveland, Conway and O'Ban spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8616.

The motion by Senator Honeyford carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Colonel Jim Furlong who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Colonel Jim Furlong to address the Senate.

REMARKS BY COLONEL FURLONG

Colonel Jim Furlong: "Thank you very much. I am honored to receive this proclamation for my third year that I have been Commander of the Washington Wing of the Civil Air Patrol. I would like to particularly thank Senator Honeyford for his remarkable leadership that he has shown in bringing the message about who we are and what we can do for your communities throughout the state. I think you all know that Jim Honeyford was proclaimed the best Legislative Squad Commander in the country a year ago and he is certainly earned every bit of that. I will not repeat all of the statistics that you have already heard, except that seventy-five years in service to your nation and service to our communities, all volunteers, and we are here to be your air force, your civilian air patrol, and just call on us if we can do anything to help you. Thank you very much."

REMARKS BY THE PRESIDENT

President Habib: "Thank you, and thank you for everything you do to educate the next generation, the cadets, to keep us safe, to prepare for emergencies. It is an honor to be able to have you here with us today."

MOTION

Senator Baumgartner moved adoption of the following resolution:

SENATE RESOLUTION
8655

By Senator Baumgartner

WHEREAS, The 2016 college football season was the Year of the Receiver in the state of Washington with an unprecedented level of talent and accomplishment among wide receivers at Washington's NCAA Division I schools; and

WHEREAS, This group of superstars is on its way to a big future in professional football beginning with the upcoming NFL draft; and

WHEREAS, Kendrick Bourne recorded career stats at Eastern Washington University that are in the top seven in school history; Kendrick received All-Big Sky Conference honors three times, was selected to the Hero Sports FCS All-American team, and earned a selection to the NFL Players Association Bowl; and

WHEREAS, Shaq Hill broke the Eastern Washington University career kickoff return record, became the second Eagle ever to letter in four playoff years, recorded the third most all-purpose yards in school history, and was selected to the Hero Sports FCS All-American team; and

WHEREAS, Cooper Kupp set 29 records at Eastern Washington University, 11 in the conference and 15 in the FCS while earning four-time consensus FCS All-American honors, three-time Academic All-American honors, three offensive player of the year awards, the Walter Payton Award, and the Jerry Rice Award as a freshman; and

WHEREAS, The trio of Bourne, Hill, and Kupp combined for 817 catches, 12,412 yards, and 132 touchdowns; and

WHEREAS, River Cracraft became the second most prolific receiver in Washington State University's 124 year college football history, establishing himself as one of the top 20 most successful receivers in Pac-12 history while appearing twice on the Biletnikoff Award watch list and receiving the Laurie Niemi Award from his team for his courage and determination; and

WHEREAS, Gabe Marks holds the Washington State University record for most career receiving yards and holds the Pac-12 record for most receptions, which he achieved while earning back-to-back All-Pac-12 honors and team offensive MVP awards; and

WHEREAS, Dante Pettis set the University of Washington school record for punt return touchdowns and was selected by The Sporting News as an All-American punt returner and achieved All-Pac-12 honors as both a receiver and an academic while recording the seventh most receiving touchdowns in the nation in 2016; and

WHEREAS, John Ross recorded receiving figures that are in the top four in University of Washington's history, placed third in the nation for receiving touchdowns, received multiple All-American and All-Pac-12 honors, made it to the semifinals for the Biletnikoff Award, and blew the socks off scouts at the NFL Combine with a record 4.22 40-yard dash time; and

WHEREAS, No group of receivers from the state of Washington has achieved so much, recording 1,551 receptions, 20,633 yards, and 211 touchdowns combined;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the staggering achievements of Kendrick Bourne, Shaq Hill, Cooper Kupp, River Cracraft, Gabe Marks, Dante Pettis, and John Ross as athletes, leaders, and academics; and

BE IT FURTHER RESOLVED, That each of these athletes carry the support and encouragement of the Washington State Senate into their future careers as professionals; and

BE IT FURTHER RESOLVED, That the 2016 college football season in Washington be remembered as the "Year of the Receiver" because of the unprecedented accomplishments of this class of receivers.

Senators Baumgartner, Mullet, Angel and Hunt spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8655.

The motion by Senator Baumgartner carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Shaq Hill from Eastern Washington University; Mr. River Cracraft from Washington State University; and Mr. Dante Pettis from the University of Washington, who were seated at the rostrum.

MOTION

At 10:32 a.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:28 a.m. by President Habib.

MOTION

On motion of Senator Fain, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5008 with the following amendment(s): 5008.E AMH TR H2606.2

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 11. A new section is added to chapter 46.20 RCW to read as follows:

(1) Beginning July 1, 2018, except for enhanced drivers' licenses and identicards issued under RCW 46.20.202, the department must mark a driver's license or identicard issued under this chapter in accordance with the requirements of 6 C.F.R. Sec. 37.71 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(2) The department must adopt rules necessary to implement this section.

NEW SECTION. Sec. 12. A new section is added to chapter 46.20 RCW to read as follows:

(1) A driver's license or identicard issued with the design features required in section 1 of this act may not be used as evidence of or as a basis to infer an individual's citizenship or immigration status for any purpose.

(2) The presence of the design features required in section 1 of this act on a person's driver's license or identicard may not be used as a basis for the criminal investigation, arrest, or detention of that person in circumstances where a person with a driver's license or identicard without these design features would not be criminally investigated, arrested, or detained.

NEW SECTION. Sec. 13. A new section is added to chapter 46.20 RCW to read as follows:

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(1) In the absence of express authorization in state law, the department is prohibited from altering department practices to comply with any additional requirements set forth by the federal government as a condition to state compliance with the REAL ID Act of 2005, P.L. 109-13, which are not included in 6 C.F.R. Part 37 as of April 1, 2017.

(2) In the absence of express authorization in state law, the department is prohibited from altering department practices as of April 1, 2017, with respect to the extent to which personally identifying information required to apply for a driver's license or identicaid may be released to the federal government or to a party the department has knowledge may intend to release the information for the purpose of it being provided to the federal government, either directly or indirectly.

NEW SECTION. Sec. 14. RCW 43.41.390 (Implementation of federal REAL ID Act of 2005) and 2007 c 85 s 1 are each repealed."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator King moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5008 and ask the House to recede therefrom.

Senators King and Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5008 and ask the House to recede therefrom.

The motion by Senator King carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 5008 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5018 with the following amendment(s): 5018-S AMH TR H2431.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 15. (1) The department of transportation shall engage in a transparent, public process to reexamine the administrative rules surrounding access to high occupancy vehicle lanes that must include an examination of the benefits and impacts of allowing private, for hire vehicles regulated under chapter 81.72 RCW that have been specially manufactured, designed, or modified for the transportation of a person who has a mobility disability and uses a wheelchair or other assistive device into the high occupancy vehicle lanes.

(2) By January 1, 2019, the department of transportation shall report progress of the public rule reexamination process in subsection (1) of this section to the transportation committees of the legislature with sufficient time for review before the conclusion of the process.

NEW SECTION. Sec. 16. This act expires August 1, 2019." Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator King moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5018 and ask the House to recede therefrom.

Senators King and Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5018 and ask the House to recede therefrom.

The motion by Senator King carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5018 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5268 with the following amendment(s): 5268 AMH APP H2601.1

Strike everything after the enacting clause and insert the following:

"Sec. 17. RCW 9.41.070 and 2011 c 294 s 1 are each amended to read as follows:

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045, or is prohibited from possessing a firearm under federal law;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2)(a) The issuing authority shall conduct a check through the national instant criminal background check system, the Washington state patrol electronic database, the department of social and health services electronic database, and with other agencies or resources as appropriate, to determine whether the

applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from possessing a firearm under federal law, and therefore ineligible for a concealed pistol license.

(b) The issuing authority shall deny a permit to anyone who is found to be prohibited from possessing a firearm under federal or state law.

(c) This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, email address at the option of the applicant, date and place of birth, race, gender, description, a complete set of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington state patrol. The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The application shall contain questions about the applicant's eligibility under RCW 9.41.040 and federal law to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. If the applicant is not a United States citizen, the applicant must provide the applicant's country of citizenship, United States issued alien number or admission number, and the basis on which the applicant claims to be exempt from federal prohibitions on firearm possession by aliens. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall, if applicable, meet the additional requirements of RCW 9.41.173 and produce proof of compliance with RCW 9.41.173 upon application. The license may be in triplicate or in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the federal bureau of investigation that are passed on

to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;

(c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(d) Three dollars to the firearms range account in the general fund.

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(c) Three dollars to the firearms range account in the general fund.

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9) If the licensee provides an email address at the time of application, the department of licensing must send notice of the license expiration to the licensee's email address within sixty days prior to the expiration of the license. A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife account and used exclusively first for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law, and subsequently the support of volunteer instructors in the basic firearms safety training program conducted by the department of fish and wildlife. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

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- (a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;
 - (b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or
 - (c) Anywhere in the state if the applicant is a nonresident.
- (14) Any person who, as a member of the armed forces, including the national guard and armed forces reserves, is unable to renew his or her license under subsections (6) and (9) of this section because of the person's assignment, reassignment, or deployment for out-of-state military service may renew his or her license within ninety days after the person returns to this state from out-of-state military service, if the person provides the following to the issuing authority no later than ninety days after the person's date of discharge or assignment, reassignment, or deployment back to this state: (a) A copy of the person's original order designating the specific period of assignment, reassignment, or deployment for out-of-state military service, and (b) if appropriate, a copy of the person's discharge or amended or subsequent assignment, reassignment, or deployment order back to this state. A license so renewed under this subsection (14) shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license under this subsection (14) shall pay only the renewal fee specified in subsection (6) of this section and shall not be required to pay a late renewal penalty in addition to the renewal fee.

NEW SECTION. Sec. 18. The sum of seventy-five thousand dollars is appropriated for the fiscal biennium ending June 30, 2019, from the firearms range account to the department of licensing solely for the purposes of section 1 of this act."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Padden moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5268 and ask the House to recede therefrom.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5268 and ask the House to recede therefrom.

The motion by Senator Padden carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5268 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5081 with the following amendment(s): 5081-S AMH JUDI H2405.1

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 19. SHORT TITLE. This chapter may be known and cited as the revised uniform law on notarial acts.

NEW SECTION. Sec. 20. DEFINITIONS. In this chapter:

- (1) "Acknowledgment" means a declaration by an individual in the presence of a notarial officer stating that the individual has signed a record of the individual's free will for the purpose stated in the record and, if the record is signed in a representative capacity, the individual also declares that he or she signed the

record with proper authority and signed it as the act of the individual or entity identified in the record.

- (2) "Department" means the department of licensing.
- (3) "Director" means the director of licensing or the director's designee.
- (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (5) "Electronic records notary public" means an individual commissioned by the director to perform a notarial act with respect to electronic records. Nothing in this act authorizes an electronic records notary public to provide court reporting services.
- (6) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.
- (7) "In a representative capacity" means acting as:
 - (a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;
 - (b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
 - (c) An agent or attorney-in-fact for a principal; or
 - (d) An authorized representative of another in any other capacity.
- (8) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, certifying the occurrence of an event or the performance of an act, and noting a protest of a negotiable instrument if the protest was prepared under the authority of an attorney licensed to practice law in this state or another state, or was prepared under the authority of a financial institution that is regulated by this state, another state, or the federal government.
- (9) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.
- (10) "Notary public" means an individual commissioned to perform a notarial act by the director.
- (11) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.
- (12) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in human perceivable form.
- (14) "Sign" means, with present intent to authenticate or adopt a record:
 - (a) To execute or adopt a tangible symbol; or
 - (b) To attach to or logically associate with the record an electronic symbol, sound, or process.
- (15) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.
- (16) "Stamping device" means:
 - (a) A physical device capable of affixing to or embossing on a tangible record an official stamp; or
 - (b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.
- (17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any

territory or insular possession subject to the jurisdiction of the United States.

(18) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

NEW SECTION. Sec. 21. APPLICABILITY. This chapter applies to a notarial act performed on or after the effective date of this section.

NEW SECTION. Sec. 22. AUTHORITY TO PERFORM NOTARIAL ACT. (1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2)(a) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party, or in which any of the above have a direct beneficial interest.

(b) A notarial officer may not notarize the notarial officer's own signature.

(c) A notarial act performed in violation of this subsection (2) is voidable.

NEW SECTION. Sec. 23. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS. (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(3) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(4) A notarial officer who certifies or attests a copy of a record or an item that was copied shall compare the copy with the original record or item and determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

(5) A notarial officer may make or note a protest of a negotiable instrument only if the notarial officer is licensed to practice law in this state, acting under the authority of an attorney who is licensed to practice law in this or another state, or acting under the authority of a financial institution regulated by this state, another state, or the federal government. In making or noting a protest of a negotiable instrument the notarial officer or licensed attorney shall determine the matters set forth in RCW 62A.3-505(b).

NEW SECTION. Sec. 24. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

NEW SECTION. Sec. 25. IDENTIFICATION OF INDIVIDUAL. (1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(i) A passport, driver's license, or government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act; or

(ii) Another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or
(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and personally known to the officer and who provides satisfactory evidence of his or her identity as described in (a) of this subsection.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

NEW SECTION. Sec. 26. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT. (1) A notarial officer has the authority to refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

(b) The individual's signature is knowingly and voluntarily made.

(2) A notarial officer has the authority to refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

NEW SECTION. Sec. 27. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN. Except as otherwise provided in RCW 64.08.100, if an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

NEW SECTION. Sec. 28. NOTARIAL ACT IN THIS STATE. (1) A notarial act may be performed in this state by:

(a) A notary public of this state;

(b) A judge, clerk, or deputy clerk of a court of this state; or

(c) Any other individual authorized to perform the specific act by the law of this state.

(2) The signature and title of an individual authorized by this act to perform a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) of this section conclusively establishes the authority of the officer to perform the notarial act.

NEW SECTION. Sec. 29. NOTARIAL ACT IN ANOTHER STATE. (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

(a) A notary public of that state;

(b) A judge, clerk, or deputy clerk of a court of that state; or

(c) Any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act.

NEW SECTION. Sec. 30. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY RECOGNIZED INDIAN TRIBE. (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

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- (a) A notary public of the tribe;
- (b) A judge, clerk, or deputy clerk of a court of the tribe; or
- (c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act.
NEW SECTION. Sec. 31. NOTARIAL ACT UNDER FEDERAL AUTHORITY. (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

- (a) A judge, clerk, or deputy clerk of a court;
- (b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- (c) An individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or
- (d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (b), or (c) of this section conclusively establishes the authority of the officer to perform the notarial act.

NEW SECTION. Sec. 32. FOREIGN NOTARIAL ACT. (1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

(2) If a notarial act is performed under the authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Hague Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

NEW SECTION. Sec. 33. CERTIFICATE OF NOTARIAL ACT. (1) A notarial act must be evidenced by a certificate. The certificate must:

- (a) Be executed contemporaneously with the performance of the notarial act;
- (b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the department;
- (c) Identify the jurisdiction in which the notarial act is performed;
- (d) Contain the title of office of the notarial officer;
- (e) Be written in English or in dual languages, one of which must be English; and
- (f) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

(2) Regarding notarial act certificates on a tangible record:

- (a) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate.
- (b) If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be affixed to or embossed on the certificate.

(3) Regarding notarial act certificates on an electronic record:

- (a) If a notarial act regarding an electronic record is performed by an electronic records notary public, an official stamp must be attached to or logically associated with the certificate.
- (b) If a notarial act regarding an electronic record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) of this section and:

- (a) Is in a short form set forth in section 16 of this act;
- (b) Is in a form otherwise permitted by the law of this state;
- (c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or
- (d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5, 6, and 7 of this act or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 5, 6, and 7 of this act.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the director has established standards pursuant to section 28 of this act for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

NEW SECTION. Sec. 34. SHORT FORM CERTIFICATES. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 15 (1) through (4) of this act:

(1) For an acknowledgment in an individual capacity:

State of

County of

This record was acknowledged before me on (date) by (name(s) of individual(s)).

(Stamp) (Signature of notary public)

(Title of office)
My commission expires:
(date)

(2) For an acknowledgment in a representative capacity:
State of
County of
This record was acknowledged before me on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

(Stamp) (Signature of notary public)

(Title of office)
My commission expires:
(date)

(3) For verification on oath or affirmation:
State of
County of
Signed and sworn to (or affirmed) before me on (date) by (name(s) of individuals making statement).

(Stamp) (Signature of notary public)

(Title of office)
My commission expires:
(date)

(4) For witnessing or attesting a signature:
State of
County of
Signed or attested before me on (date) by (name(s) of individuals).

(Stamp) (Signature of notary public)

(Title of office)
My commission expires:
(date)

(5) For certifying or attesting a copy of a record:
State of
County of
I certify that this is a true and correct copy of a record in the possession of
Dated:

(Stamp) (Signature of notary public)

(Title of office)
My commission expires:
(date)

(6) For certifying the occurrence of an event or the performance of any act:
State of
County of

I certify that the event described in this document has occurred or been performed.
Dated:

(Stamp) (Signature of notary public)

(Title of office)
My commission expires:
(date)

NEW SECTION. Sec. 35. OFFICIAL STAMP. (1) It is unlawful for any person intentionally to manufacture, give, sell, procure, or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has issued a notary commission. The official seal or stamp of a notary public must include:

- (a) The words "notary public;"
 - (b) The words "state of Washington;"
 - (c) The notary public's name as commissioned;
 - (d) The notary public's commission expiration date; and
 - (e) Any other information required by the director.
- (2) The size and form or forms of the seal or stamp shall be prescribed by the director in rule.
(3) The seal or stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.
(4) The seal or stamp used at the time that a notarial act is performed must be the seal or stamp evidencing the notary public's commission in effect as of such time, even if the notary public has received the seal or stamp evidencing his or her next commission.

NEW SECTION. Sec. 36. STAMPING DEVICE. (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(2) The seal or stamp should be kept in a locked and secured area, under the direct and exclusive control of the notary public. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the department on discovering that the device is lost or stolen. Any replacement device must contain a variance from the lost or stolen seal or stamp.

NEW SECTION. Sec. 37. FEES. (1) The director may establish by rule the maximum fees that may be charged by notaries public for various notarial services.
(2) A notary public need not charge fees for notarial acts.

NEW SECTION. Sec. 38. (1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal. The journal is to be destroyed as required by the director in rule upon completion of the ten-year period.

(2) Notwithstanding any other provision of this chapter requiring a notary public to maintain a journal, a notary public who is an

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attorney licensed to practice law in this state is not required to chronicle a notarial act in a journal if documentation of the notarial act is otherwise maintained by professional practice.

(3) A notary public shall maintain only one tangible journal at a time to chronicle notarial acts, whether those notarial acts are performed regarding tangible or electronic records. The journal must be a permanent, bound register with numbered pages. An electronic records notary public may also maintain an electronic format journal, which can be kept concurrently with the tangible journal. The electronic journal must be in a permanent, tamper-evident electronic format complying with the rules of the director.

(4) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (a) The date and time of the notarial act;
 - (b) A description of the record, if any, and type of notarial act;
 - (c) The full name and address of each individual for whom the notarial act is performed; and
 - (d) Any additional information as required by the director in rule.
- (5) The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary public. Failure to secure the journal may be cause for the director to take administrative action against the commission held by the notary public. If a notary public's journal is lost or stolen, the notary public promptly shall notify the department on discovering that the journal is lost or stolen.
- (6) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the department where the journal is located.

NEW SECTION. Sec. 39. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD—SELECTION OF TECHNOLOGY. (1) A notary public may not perform notarial acts with respect to electronic records unless the notary public holds a commission as an electronic records notary public.

(2) An electronic records notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records that meet the standards provided in subsection (4) of this section. A person cannot require an electronic records notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(3) Before an electronic records notary public performs the notary public's initial notarial act with respect to an electronic record, an electronic records notary public shall notify the department that he or she will be performing notarial acts with respect to electronic records and identify the technology the electronic records notary public intends to use.

(4) The director shall establish standards for approval of technology in rule. If the technology conforms to the standards, the director shall approve the use of the technology.

NEW SECTION. Sec. 40. COMMISSION AS NOTARY PUBLIC—QUALIFICATIONS—NO IMMUNITY OR BENEFIT. (1) An individual qualified under subsection (2) of this section may apply to the director for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the director and pay any application fee.

(2) An applicant for a commission as a notary public must:

- (a) Be at least eighteen years of age;
- (b) Be a citizen or permanent legal resident of the United States;
- (c) Be a resident of or have a place of employment or practice in this state;
- (d) Be able to read and write English;

(e) Not be disqualified to receive a commission under section 24 of this act; and

(f) Have successfully completed a course or passed an examination required under section 23 of this act.

(3) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the department in the format prescribed by the director in rule.

(4) Before issuance of a commission as a notary public, the applicant for a commission shall submit to the director an assurance in the form of a surety bond in the amount established by the director in rule. The assurance must be issued by a surety or other entity licensed or authorized to write surety bonds in this state. The assurance must be effective for a four-year term or for a term that expires on the date the notary public's commission expires. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the director. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give at least thirty days notice to the department before canceling the assurance. The surety or issuing entity shall notify the department not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the department.

(5) On compliance with this section, the director shall issue a commission as a notary public to an applicant for a term of four years or for a term that expires on the date of expiration of the assurance, whichever comes first.

(6) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

(7) An individual qualified under (a) of this subsection may apply to the director for a commission as an electronic records notary public. The applicant shall comply with and provide the information required by rules established by the director and pay the relevant application fee.

(a) An applicant for a commission as an electronic records notary public must hold a commission as notary public.

(b) An electronic records notary public commission may take the form of an endorsement to the notary public commission if deemed appropriate by the director.

NEW SECTION. Sec. 41. EXAMINATION OF NOTARY PUBLIC. The director may require an applicant for a commission or renewal of a commission as a notary public, including an applicant for a commission as an electronic records notary public, to successfully pass a course or an examination, as prescribed by the director in rule.

NEW SECTION. Sec. 42. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC. (1) In addition to conduct defined as unprofessional under RCW 18.235.130, the director may take action as provided for in RCW 18.235.110 against a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

- (a) Failure to comply with this chapter;
- (b) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the department;
- (c) A conviction of the applicant or notary public of any felony or crime involving fraud, dishonesty, or deceit;

(d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(e) Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the director, or any federal or state law;

(f) Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have;

(g) Violation by the notary public of a rule of the director regarding a notary public;

(h) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state;

(i) Failure of the notary public to maintain an assurance as provided in section 22(4) of this act; or

(j) Making or noting a protest of a negotiable instrument without being a person authorized by section 5(5) of this act.

(2) If the director denies, refuses to renew, revokes, suspends, imposes conditions, or otherwise sanctions, a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 34.05 RCW.

(3) The authority of the director to take disciplinary action on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

NEW SECTION. Sec. 43. DATABASE OF NOTARIES PUBLIC. The director shall maintain an electronic database of notaries public:

(1) Through which a person may verify the authority of a notary public to perform notarial acts; and

(2) Which indicates whether a notary public has notified the director that the notary public will be performing notarial acts on electronic records.

NEW SECTION. Sec. 44. PROHIBITED ACTS. (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give legal advice, or otherwise practice law;

(b) Act as an immigration consultant or an expert on immigration matters;

(c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters;

(d) Receive compensation for performing any of the activities listed in this subsection; or

(e) Provide court reporting services.

(2) A notary public may not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may not use the term "notario" or "notario publico."

(4) A notary public, other than an attorney licensed to practice law in this state or a limited license legal technician acting within the scope of his or her license, may not assist another person in selecting the appropriate certificate required by section 15 of this act.

(5) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, in any

manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the director, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(6) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public. A notary public may not maintain copies or electronic images of documents notarized unless the copies or images are maintained by an attorney or Washington-licensed limited license legal technician acting within his or her scope of practice for the performance of legal services or for other services performed for the client and the copies or images are not maintained solely as part of the notary transaction.

NEW SECTION. Sec. 45. VALIDITY OF NOTARIAL ACTS. Except as otherwise provided in section 4(2) of this act, the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. Nothing in this act gives the director authority to invalidate a notarial act.

NEW SECTION. Sec. 46. RULES. (1) The director may adopt rules necessary to implement this chapter.

(2) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the director shall consider standards, practices, and customs of other jurisdictions that substantially enact this chapter.

NEW SECTION. Sec. 47. NOTARY PUBLIC COMMISSION IN EFFECT. A commission as a notary public in effect on the effective date of this section continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this section is subject to and shall comply with this chapter. A notary public, in performing notarial acts after the effective date of this section, shall comply with this chapter.

NEW SECTION. Sec. 48. SAVINGS CLAUSE. This chapter does not affect the validity or effect of a notarial act performed before the effective date of this section.

NEW SECTION. Sec. 49. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 50. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize

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electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. Sec. 51. UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 52. NEW CHAPTER. Sections 1 through 33 and 45 of this act constitute a new chapter in Title 42 RCW.

NEW SECTION. Sec. 53. REPEALS. The following acts or parts of acts are each repealed:

- (1)RCW 42.44.010 (Definitions) and 1985 c 156 s 1;
- (2)RCW 42.44.020 (Qualifications—Application—Bond) and 1985 c 156 s 2;
- (3)RCW 42.44.030 (Appointment—Denial for unprofessional conduct—Certificate of appointment) and 2011 c 244 s 6, 2002 c 86 s 287, & 1985 c 156 s 3;
- (4)RCW 42.44.050 (Seal or stamp) and 1985 c 156 s 5;
- (5)RCW 42.44.060 (Term) and 2002 c 86 s 288 & 1985 c 156 s 6;
- (6)RCW 42.44.070 (Reappointment without endorsements) and 1985 c 156 s 7;
- (7)RCW 42.44.080 (Standards for notarial acts) and 1987 c 76 s 3 & 1985 c 156 s 8;
- (8)RCW 42.44.090 (Form of certificate—General—Seal or stamp as exclusive property) and 1985 c 156 s 9;
- (9)RCW 42.44.100 (Short forms of certificate) and 1988 c 69 s 4 & 1985 c 156 s 10;
- (10)RCW 42.44.110 (Illegible writing) and 1985 c 156 s 11;
- (11)RCW 42.44.120 (Fees) and 1985 c 156 s 12;
- (12)RCW 42.44.130 (Notarial acts by officials of other jurisdictions) and 1985 c 156 s 13;
- (13)RCW 42.44.140 (Notarial acts by federal authorities) and 1985 c 156 s 14;
- (14)RCW 42.44.150 (Notarial acts by foreign authorities) and 1985 c 156 s 15;
- (15)RCW 42.44.160 (Official misconduct—Penalty) and 2002 c 86 s 289 & 1985 c 156 s 16;
- (16)RCW 42.44.170 (Revocation of appointment—Resignation) and 2002 c 86 s 290 & 1985 c 156 s 17;
- (17)RCW 42.44.180 (Evidence of authenticity of notarial seal and signature) and 1985 c 156 s 18;
- (18)RCW 42.44.190 (Rules) and 2002 c 86 s 291 & 1985 c 156 s 20;
- (19)RCW 42.44.200 (Transfer of records) and 1985 c 156 s 22;
- (20)RCW 42.44.210 (Uniform regulation of business and professions act) and 2002 c 86 s 292;
- (21)RCW 42.44.220 (Military training or experience) and 2011 c 351 s 18;
- (22)RCW 42.44.221 (Spouses of military personnel—Appointment) and 2011 2nd sp.s. c 5 s 7;
- (23)RCW 42.44.900 (Savings—1985 c 156) and 1985 c 156 s 21;
- (24)RCW 42.44.901 (Construction) and 1985 c 156 s 23; and
- (25)RCW 42.44.903 (Effective date—1985 c 156) and 1985 c 156 s 27.

Sec. 54. RCW 9.97.020 and 2016 c 81 s 3 are each amended to read as follows:

(1) Except as provided in this section, no state, county, or municipal department, board, officer, or agency authorized to assess the qualifications of any applicant for a license, certificate of authority, qualification to engage in the practice of a profession or business, or for admission to an examination to qualify for such a license or certificate may disqualify a qualified applicant, solely based on the applicant's criminal history, if the qualified applicant

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has obtained a certificate of restoration of opportunity and the applicant meets all other statutory and regulatory requirements, except as required by federal law or exempted under this subsection. Nothing in this section is interpreted as restoring or creating a means to restore any firearms rights or eligibility to obtain a firearm dealer license pursuant to RCW 9.41.110 or requiring the removal of a protection order.

(a)(i) Criminal justice agencies, as defined in RCW 10.97.030, and the Washington state bar association are exempt from this section.

(ii) This section does not apply to the licensing, certification, or qualification of the following professionals: Accountants, RCW 18.04.295; assisted living facilities employees, RCW 18.20.125; bail bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241; long-term care workers, RCW 18.88B.080; nursing home administrators, RCW 18.52.071; nursing, chapter 18.79 RCW; physicians and physician assistants, chapters 18.71 and 18.71A RCW; private investigators, RCW 18.165.030; receivers, RCW 7.60.035; teachers, chapters 28A.405 and 28A.410 RCW; notaries public, chapter ~~((42.44 RCW))~~ 42.--- RCW (the new chapter created in section 34 of this act); private investigators, chapter 18.165 RCW; real estate brokers and salespersons, chapters 18.85 and 18.86 RCW; security guards, chapter 18.170 RCW; and vulnerable adult care providers, RCW 43.43.842.

(iii) To the extent this section conflicts with the requirements for receipt of federal funding under the adoption and safe families act, 42 U.S.C. Sec. 671, this section does not apply.

(b) Unless otherwise addressed in statute, in cases where an applicant would be disqualified under RCW 43.20A.710, and the applicant has obtained a certificate of restoration of opportunity, the department of social and health services may, after review of relevant factors, including the nature and seriousness of the offense, time that has passed since conviction, changed circumstances since the offense occurred, and the nature of the employment or license sought, at its discretion:

(i) Allow the applicant to have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities if the applicant is otherwise qualified and suitable; or

(ii) Disqualify the applicant solely based on the applicant's criminal history.

(c) If the practice of a profession or business involves unsupervised contact with vulnerable adults, children, or individuals with mental illness or developmental disabilities, or populations otherwise defined by statute as vulnerable, the department of health may, after review of relevant factors, including the nature and seriousness of the offense, time that has passed since conviction, changed circumstances since the offense occurred, and the nature of the employment or license sought, at its discretion:

(i) Disqualify an applicant who has obtained a certificate of restoration of opportunity, for a license, certification, or registration to engage in the practice of a health care profession or business solely based on the applicant's criminal history; or

(ii) If such applicant is otherwise qualified and suitable, credential or credential with conditions an applicant who has obtained a certificate of restoration of opportunity for a license, certification, or registration to engage in the practice of a health care profession or business.

(d) The state of Washington, any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, the department of health, and its officers, employees, contractors, and agents are immune from suit in law, equity, or any action under the administrative procedure act based upon its exercise of discretion under this section. This section does not create a

protected class; private right of action; any right, privilege, or duty; or change to any right, privilege, or duty existing under law. This section does not modify a licensing or certification applicant's right to a review of an agency's decision under the administrative procedure act or other applicable statute or agency rule. A certificate of restoration of opportunity does not remove or alter citizenship or legal residency requirements already in place for state agencies and employers.

(2) A qualified court has jurisdiction to issue a certificate of restoration of opportunity to a qualified applicant.

(a) A court must determine, in its discretion whether the certificate:

(i) Applies to all past criminal history; or

(ii) Applies only to the convictions or adjudications in the jurisdiction of the court.

(b) The certificate does not apply to any future criminal justice involvement that occurs after the certificate is issued.

(c) A court must determine whether to issue a certificate by determining whether the applicant is a qualified applicant as defined in RCW 9.97.010.

(3) An employer or housing provider may, in its sole discretion, determine whether to consider a certificate of restoration of opportunity issued under this chapter in making employment or rental decisions. An employer or housing provider is immune from suit in law, equity, or under the administrative procedure act for damages based upon its exercise of discretion under this section or the refusal to exercise such discretion. In any action at law against an employer or housing provider arising out of the employment of or provision of housing to the recipient of a certificate of restoration of opportunity, evidence of the crime for which a certificate of restoration of opportunity has been issued may not be introduced as evidence of negligence or intentionally tortious conduct on the part of the employer or housing provider. This subsection does not create a protected class, private right of action, any right, privilege, or duty, or to change any right, privilege, or duty existing under law related to employment or housing except as provided in RCW 7.60.035.

(4)(a) Department of social and health services: A certificate of restoration of opportunity does not apply to the state abuse and neglect registry. No finding of abuse, neglect, or misappropriation of property may be removed from the registry based solely on a certificate. The department must include such certificates as part of its criminal history record reports, qualifying letters, or other assessments pursuant to RCW 43.43.830 through 43.43.838. The department shall adopt rules to implement this subsection.

(b) Washington state patrol: The Washington state patrol is not required to remove any records based solely on a certificate of restoration of opportunity. The state patrol must include a certificate as part of its criminal history record report.

(c) Court records:

(i) A certificate of restoration of opportunity has no effect on any other court records, including records in the judicial information system. The court records related to a certificate of restoration of opportunity must be processed and recorded in the same manner as any other record.

(ii) The qualified court where the applicant seeks the certificate of restoration of opportunity must administer the court records regarding the certificate in the same manner as it does regarding all other proceedings.

(d) Effect in other judicial proceedings: A certificate of restoration of opportunity may only be submitted to a court to demonstrate that the individual met the specific requirements of this section and not for any other procedure, including evidence of character, reputation, or conduct. A certificate is not an equivalent procedure under Rule of Evidence 609(c).

(e) Department of health: The department of health must include a certificate of restoration of opportunity on its public web site if:

(i) Its web site includes an order, stipulation to informal disposition, or notice of decision related to the conviction identified in the certificate of restoration of opportunity; and

(ii) The credential holder has provided a certified copy of the certificate of restoration of opportunity to the department of health.

(5) In all cases, an applicant must provide notice to the prosecutor in the county where he or she seeks a certificate of restoration of opportunity of the pendency of such application. If the applicant has been sentenced by any other jurisdiction in the five years preceding the application for a certificate, the applicant must also notify the prosecuting attorney in those jurisdictions. The prosecutor in the county where an applicant applies for a certificate shall provide the court with a report of the applicant's criminal history.

(6) Application for a certificate of restoration of opportunity must be filed as a civil action.

(7) A superior court in the county in which the applicant resides may decline to consider the application for certificate of restoration of opportunity. If the superior court in which the applicant resides declines to consider the application, the court must dismiss the application without prejudice and the applicant may refile the application in another qualified court. The court must state the reason for the dismissal on the order. If the court determines that the applicant does not meet the required qualifications, then the court must dismiss the application without prejudice and state the reason(s) on the order. The superior court in the county of the applicant's conviction or adjudication may not decline to consider the application.

(8) Unless the qualified court determines that a hearing on an application for certificate of restoration is necessary, the court must decide without a hearing whether to grant the certificate of restoration of opportunity based on a review of the application filed by the applicant and pleadings filed by the prosecuting attorney.

(9) The clerk of the court in which the certificate of restoration of opportunity is granted shall transmit the certificate of restoration of opportunity to the Washington state patrol identification section, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol shall update its records to reflect the certificate of restoration of opportunity.

(10)(a) The administrative office of the courts shall develop and prepare instructions, forms, and an informational brochure designed to assist applicants applying for a certificate of restoration of opportunity.

(b) The instructions must include, at least, a sample of a standard application and a form order for a certificate of restoration of opportunity.

(c) The administrative office of the courts shall distribute a master copy of the instructions, informational brochure, and sample application and form order to all county clerks and a master copy of the application and order to all superior courts by January 1, 2017.

(d) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions, which shall contain a sample of the standard application and order, and the informational brochure into languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to the county clerks by January 1, 2017.

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(e) The administrative office of the courts shall update the instructions, brochures, standard application and order, and translations when changes in the law make an update necessary.

Sec. 55. RCW 18.235.010 and 2007 c 256 s 11 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

(2) "Department" means the department of licensing.

(3) "Director" means the director of the department or director's designee.

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term ("~~appointment~~") "commission" under chapter (~~(42.44 RCW)~~) 42.--- RCW (the new chapter created in section 34 of this act), are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

Sec. 56. RCW 18.235.020 and 2013 c 322 s 29 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter (~~(42.44 RCW)~~) 42.--- RCW (the new chapter created in section 34 of this act);

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Whitewater river outfitters under chapter 79A.60 RCW;

(xxi) Home inspectors under chapter 18.280 RCW;

(xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

(xxiii) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

Sec. 57. RCW 19.34.340 and 1997 c 27 s 21 are each amended to read as follows:

(1) Unless otherwise provided by law or contract, if so provided in the certificate issued by a licensed certification authority, a digital signature verified by reference to the public key listed in a valid certificate issued by a licensed certification authority satisfies the requirements for an acknowledgment under (~~(RCW 42.44.010(4))~~) section 2(1) of this act and for acknowledgment of deeds and other real property conveyances under RCW 64.04.020 if words of an express acknowledgment appear with the digital signature regardless of whether the signer personally appeared before either the certification authority or some other person authorized to take acknowledgments of deeds, mortgages, or other conveyance instruments under RCW 64.08.010 when the digital signature was created, if that digital signature is:

(a) Verifiable by that certificate; and

(b) Affixed when that certificate was valid.

(2) If the digital signature is used as an acknowledgment, then the certification authority is responsible to the same extent as a notary up to the recommended reliance limit for failure to satisfy the requirements for an acknowledgment. The certification authority may not disclaim or limit, other than as provided in RCW 19.34.280, the effect of this section.

Sec. 58. RCW 19.154.060 and 2011 c 244 s 3 are each amended to read as follows:

(1) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the practice of law in an immigration matter for compensation.

(2) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, for compensation:

(a) Advising or assisting another person in determining the person's legal or illegal status for the purpose of an immigration matter;

(b) Selecting or assisting another in selecting, or advising another as to his or her answers on, a government agency form or document in an immigration matter;

(c) Selecting or assisting another in selecting, or advising another in selecting, a benefit, visa, or program to apply for in an immigration matter;

(d) Soliciting to prepare documents for, or otherwise representing the interests of, another in a judicial or administrative proceeding in an immigration matter;

(e) Explaining, advising, or otherwise interpreting the meaning or intent of a question on a government agency form in an immigration matter;

(f) Charging a fee for referring another to a person licensed to practice law;

(g) Selecting, drafting, or completing legal documents affecting the legal rights of another in an immigration matter.

(3) Persons, other than those holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, regardless of whether compensation is sought:

(a) Representing, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she is a notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or using any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the area of immigration law;

(b) Representing, in any language, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she can or is willing to provide services in an immigration matter, if such services would constitute the practice of law.

(4)(a) The prohibitions of subsections (1) through (3) of this section shall not apply to the activities of nonlawyer assistants acting under the supervision of a person holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter.

(b) This section does not prohibit a person from offering translation services, regardless of whether compensation is sought. Translating words contained on a government form from English to another language and translating a person's words from another language to English does not constitute the unauthorized practice of law.

(5) In addition to complying with the prohibitions of subsections (1) through (3) of this section, persons licensed as a notary public under chapter ~~((42.44 RCW))~~ 42.--- RCW (the new chapter created in section 34 of this act) who do not hold an active license to practice law issued by the Washington state bar association shall not use the term notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or any other designation or title, in any language, that conveys or implies

that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services in the conduct of their business. A violation of any provision of this chapter by a person licensed as a notary public under chapter ~~((42.44 RCW))~~ 42.--- RCW (the new chapter created in section 34 of this act) shall constitute unprofessional conduct under the uniform regulation of business and professions act, chapter 18.235 RCW.

Sec. 59. RCW 43.24.150 and 2013 2nd sp.s. c 4 s 978 are each amended to read as follows:

(1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

(a) Chapter 18.11 RCW, auctioneers;

(b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;

(c) Chapter 18.145 RCW, court reporters;

(d) Chapter 18.165 RCW, private investigators;

(e) Chapter 18.170 RCW, security guards;

(f) Chapter 18.185 RCW, bail bond agents;

(g) Chapter 18.280 RCW, home inspectors;

(h) Chapter 19.16 RCW, collection agencies;

(i) Chapter 19.31 RCW, employment agencies;

(j) Chapter 19.105 RCW, camping resorts;

(k) Chapter 19.138 RCW, sellers of travel;

(l) Chapter ~~((42.44 RCW))~~ 42.--- RCW (the new chapter created in section 34 of this act), notaries public;

(m) Chapter 64.36 RCW, timeshares;

(n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;

(o) Chapter 18.300 RCW, body art, body piercing, and tattooing;

(p) Chapter 79A.60 RCW, whitewater river outfitters;

(q) Chapter 19.158 RCW, commercial telephone solicitation; and

(r) Chapter 19.290 RCW, scrap metal businesses.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account must be accumulated and may not revert to the general fund at the end of the biennium. However, during the 2013-2015 fiscal biennium the legislature may transfer to the state general fund such amounts as reflect the excess fund balance in the account.

(2) The director must biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which must include the estimated income from these business and professions fees.

Sec. 60. RCW 64.08.060 and 2016 c 202 s 40 are each amended to read as follows:

A certificate of acknowledgment for an individual, substantially in the following form or, after December 31, 1985, substantially in the form set forth in ~~((RCW 42.44.100(1)))~~ section 16(1) of this act, shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of
County of ss.

On this day personally appeared before me (here insert the name of grantor or grantors) to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he (she or they) signed the same as his (her or their) free and voluntary act and

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deed, for the uses and purposes therein mentioned. Given under my hand and official seal this day of, (year) (Signature of officer and official seal)

If acknowledgment is taken before a notary public of this state the signature shall be followed by substantially the following: Notary Public in and for the state of Washington, residing at, (giving place of residence).

Sec. 61. RCW 64.08.070 and 2016 c 202 s 41 are each amended to read as follows:

A certificate of acknowledgment for a corporation, substantially in the following form or, after December 31, 1985, substantially in the form set forth in ((RCW 42.44.100(2))) section 16(2) of this act, shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

State of
County of ss.

On this day of, (year), before me personally appeared, to me known to be the (president, vice president, secretary, treasurer, or other authorized officer or agent, as the case may be) of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written. (Signature and title of official with place of residence of notary public.)

NEW SECTION. Sec. 62. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 63. EFFECTIVE DATE. This act takes effect July 1, 2018." Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5081 and ask the House to recede therefrom.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5081 and ask the House to recede therefrom.

The motion by Senator Padden carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5081 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 6, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5030 with the following amendment(s): 5030 AMH PS H2397.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 64. (1) Because of the serious nature of human trafficking related offenses, and the power, control, and exploitation exerted over victims, the legislature finds the statute of limitations on these offenses should be extended. Victims are often under the control of their trafficker for significant periods of time and may not be willing or able to report their perpetrator until they are free from their control.

(2) The legislature finds that statutes governing commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution should be consistent with all human trafficking related statutes, and reflect the practical reality of the crimes, which often involve an exchange of drugs or gifts for the commercial sex act.

Sec. 65. RCW 9A.04.080 and 2013 c 17 s 1 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
(ii) Homicide by abuse;
(iii) Arson if a death results;
(iv) Vehicular homicide;
(v) Vehicular assault if a death results;
(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4)).

(b) Except as provided in (c) of this subsection, the following offenses shall not be prosecuted more than ten years after their commission:

- (i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;
(ii) Arson if no death results;
(iii)(A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission.

(B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted more than three years after its commission; ((e¶))

- (iv) Indecent liberties under RCW 9A.44.100(1)(b); or
(v) Trafficking under RCW 9A.40.100.

(c) Violations of the following statutes, when committed against a victim under the age of eighteen, may be prosecuted up to the victim's thirtieth birthday: RCW 9A.44.040 (rape in the first degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a child in the first degree), 9A.44.076 (rape of a child in the second degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083 (child molestation in the first degree), 9A.44.086 (child molestation in the second degree), 9A.44.089 (child molestation in the third degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or 9.68A.040 (sexual exploitation of a minor).

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

- (i) RCW 9.68A.100 (commercial sexual abuse of a minor);
(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor); or
(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor).

(e) The following offenses shall not be prosecuted more than six years after their commission or their discovery, whichever occurs later:

- (i) Violations of RCW 9A.82.060 or 9A.82.080;
- (ii) Any felony violation of chapter 9A.83 RCW;
- (iii) Any felony violation of chapter 9.35 RCW;
- (iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception; or
- (v) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010.

((e)) (f) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

((f)) (g) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

((g)) (h) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

((h)) (i) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

((i)) (j) No gross misdemeanor may be prosecuted more than two years after its commission.

((j)) (k) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or one year from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

Sec. 66. RCW 9.68A.100 and 2013 c 302 s 2 are each amended to read as follows:

(1) A person is guilty of commercial sexual abuse of a minor if:

(a) He or she (~~pays a fee~~) provides anything of value to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;

(b) He or she (~~pays or agrees to pay a fee~~) provides or agrees to provide anything of value to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or

(c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for (~~a fee~~) anything of value.

(2) Commercial sexual abuse of a minor is a class B felony punishable under chapter 9A.20 RCW.

(3) In addition to any other penalty provided under chapter 9A.20 RCW, a person guilty of commercial sexual abuse of a minor is subject to the provisions under RCW 9A.88.130 and 9A.88.140.

(4) Consent of a minor to the sexual conduct does not constitute a defense to any offense listed in this section.

(5) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Sec. 67. RCW 9.68A.101 and 2013 c 302 s 3 are each amended to read as follows:

(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse or a sexually explicit act of a minor or profits from a minor engaged in sexual conduct or a sexually explicit act.

(2) Promoting commercial sexual abuse of a minor is a class A felony.

(3) For the purposes of this section:

(a) A person "advances commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person "profits from commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or (~~other property~~) anything of value pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

(c) A person "advances a sexually explicit act of a minor" if he or she causes or aids a sexually explicit act of a minor, procures or solicits customers for a sexually explicit act of a minor, provides persons or premises for the purposes of a sexually explicit act of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate a sexually explicit act of a minor.

(d) A "sexually explicit act" is a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons and for which (~~something~~) anything of value is given or received.

(e) A "patron" is a person who (~~pays or agrees to pay a fee~~) provides or agrees to provide anything of value to another person as compensation for a sexually explicit act of a minor or who solicits or requests a sexually explicit act of a minor in return for a fee.

(4) Consent of a minor to the sexually explicit act or sexual conduct does not constitute a defense to any offense listed in this section.

(5) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Sec. 68. RCW 9A.88.060 and 2011 c 336 s 412 are each amended to read as follows:

The following definitions are applicable in RCW 9A.88.070 through 9A.88.090:

(1) "Advances prostitution." A person "advances prostitution" if, acting other than as a prostitute or as a customer thereof, he or she causes or aids a person to commit or engage in prostitution, procures or solicits customers for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or

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engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.

(2) "Profits from prostitution." A person "profits from prostitution" if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she accepts or receives money or (~~other property~~) anything of value pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of prostitution activity."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Senate Bill No. 5030.

Senators Padden and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Senate Bill No. 5030.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5030 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5030, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5030, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5030, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

Senator Hunt moved adoption of the following resolution:

SENATE RESOLUTION
8645

By Senators Hunt and Sheldon

WHEREAS, The West African nation of Togo has, since 2006, made important human rights and democratic reforms that include generally free and fair legislative elections; and

WHEREAS, Togo's population of 7.7 million people represent a broad diversity of tribal traditions and religious beliefs and has, as a nation, welcomed refugees from neighboring countries; and

WHEREAS, Togo has sought to increase access to primary education by eliminating school enrollment fees; and

WHEREAS, Recent efforts to improve its business climate and attract investment by embracing free enterprise and entrepreneurship is providing an environment where individuals can better lift themselves out of poverty and attain self-sufficiency; and

WHEREAS, The United States Government is recognizing these economic reforms by inviting Togo to host the 2017 African Growth and Opportunity Act (AGOA) Forum, which will bring together government, private sector, and civil societies from 38 African countries and the United States to explore ways to increase trade between the U.S. and Africa; and

WHEREAS, Togo is an important and valuable trading partner with the State of Washington as evidenced by its trade with the Tumwater-based natural body products organization, Alaffia; and

WHEREAS, Alaffia's headquarters and production facility in Tumwater provides jobs for over 120 employees; generates a total of 284 direct, indirect, and induced jobs; and creates more than 41 million dollars in annual economic activity in Thurston County; and

WHEREAS, Alaffia directly and indirectly employs more than 11,000 people in the nation of Togo; creates economic prosperity that is empowering women through Alaffia's fair-trade practices; pays four times the local wage; and provides funding for maternal health care, education, and other empowerment programs; and

WHEREAS, Alaffia's projects have resulted in 57,575 trees planted, 32,842 school supply recipients, 7,482 bikes distributed, 24,927 eyeglasses donated, and more than 4,463 babies safely delivered in villages in Togo;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the significant progress made by the nation of Togo and Alaffia in advancing the human condition; and acknowledge the potential value for both Washington state and Togo in increasing opportunities for trade; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable U.S. Ambassador David Gilmour, to the Alaffia Empowerment Council from the Nation of Togo, to Alaffia Founder Olowo-n'djo Tchala, and to Alaffia Co-Founder Rose Hyde.

Senators Hunt, Sheldon and Baumgartner spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8645.

The motion by Senator Hunt carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced His Excellency David Gilmour, U.S. Ambassador to Togo and his wife Judith Martin; Mr. Olowon'djo Tchala, founder of Alaffia; and members of the Empowerment Council of Togo who were seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Miss Reagan Rebstock, Miss Apple Valley 2017, who was seated in the gallery.

MOTION

On motion of Senator Fain, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5022 with the following amendment(s): 5022-S AMH HE H2466.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 69. The legislature finds and declares that students pursuing higher education benefit from periodic notification about the balance of their student education loan debt. This notification helps students and their families make informed borrowing decisions about how to finance their postsecondary education and be more prepared for repayment when leaving school. The legislature recognizes the steps many higher education institutions in Washington have already taken to provide financial education and information to their students. The legislature encourages schools to continue to strengthen financial literacy training, financial aid counseling, and other resources available to students. It is the intent of the legislature to ensure that all students pursuing higher education in Washington receive periodic notifications about their student education loan debt.

NEW SECTION. Sec. 70. A new section is added to chapter 28B.10 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Educational institution" includes any entity that is an institution of higher education as defined in RCW 28B.10.016, a degree-granting institution as defined in RCW 28B.85.010, a private vocational school as defined in RCW 28C.10.020, or school as defined in RCW 18.16.020.

(b) "Student education loan" means any loan solely for personal use to finance postsecondary education and costs of attendance at an educational institution.

(2) Subject to the availability of amounts appropriated for this specific purpose, an educational institution must provide to an enrolled student who has applied for student financial aid a notification including the following information about the student education loans the educational institution has certified:

(a) An estimate, based on information available at the time the notification is provided, of the:

(i) Total amount of student education loans taken out by the student;

(ii) Potential total payoff amount of the student education loans incurred or a range of the total payoff amount, including principal and interest;

(iii) The monthly repayment amount that the student may incur for the amount of student education loans the student has taken out, based on the federal loan repayment plan borrowers are automatically enrolled in if they do not select an alternative repayment plan; and

(iv) Percentage of the aggregate federal direct loan borrowing limit applicable to the student's program of study the student has reached at the time the information is sent to the student; and

(b) Consumer information about the differences between private student loans and federal student loans, including the availability of income-based repayment plans and loan forgiveness programs for federal loans.

(3) The notification provided under subsection (2) of this section must include a statement that the estimates and ranges provided are general in nature and not meant as a guarantee or promise of

the actual projected amount. It must also include a statement that a variety of repayment plans are available for federal student loans that may limit the monthly repayment amount based on income.

(4) The notification must include information about how to access resources for student education loan borrowers provided by federal or state agencies, such as a student education loan debt hotline and web site or student education loan ombuds, federal student loan repayment calculator, or other available resources.

(5) An educational institution must provide the notification required in subsection (2) of this section via email. In addition, the educational institution may provide the notification in writing, in an electronic format, or in person.

(6) An educational institution does not incur liability, including for actions under chapter 19.86 RCW by the attorney general, for any good faith representations made under subsection (2) of this section.

(7) Educational institutions must begin providing the notification required under subsection (2) of this section by July 1, 2018, each time a financial aid package that includes a new or revised student education loan is offered to the student.

(8) Subject to the availability of amounts appropriated for this specific purpose, an organization representing the public four-year colleges and universities, an organization representing the private nonprofit institutions, the state board for community and technical colleges under chapter 28B.50 RCW, the workforce training and education coordinating board as defined in RCW 28C.18.020, and the department of licensing under chapter 46.01 RCW, must develop a form for the educational institutions to use to report compliance by July 1, 2018.

(9) Beginning December 1, 2019, and biannually thereafter until December 25, 2025, the organizations under subsection (8) of this section must submit a report in compliance with RCW 43.01.036 to the legislature that details how the educational institutions are in compliance with this section.

NEW SECTION. Sec. 71. This act may be known and cited as the Washington student loan transparency act."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Bailey moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5022.

Senator Bailey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Bailey that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5022.

The motion by Senator Bailey carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5022 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5022, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5022, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway,

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Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE SENATE BILL NO. 5022, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5152 with the following amendment(s): 5152-S AMH ELHS H2380.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 72. The legislature finds that more than twelve thousand infants born in Washington each year have been prenatally exposed to opiates, methamphetamines, and other drugs. Prenatal drug exposure frequently results in infants suffering from neonatal abstinence syndrome and its accompanying withdrawal symptoms after birth. Withdrawal symptoms may include sleep problems, excessive crying, tremors, seizures, poor feeding, fever, generalized convulsions, vomiting, diarrhea, and hyperactive reflexes. Consequently, the legislature finds that drug exposed infants have unique medical needs and benefit from specialized health care that addresses their withdrawal symptoms. Specialized care for infants experiencing neonatal abstinence syndrome is based on the individual needs of the infant and includes: Administration of intravenous fluids and drugs such as morphine; personalized, hands-on therapeutic care such as gentle rocking, reduction in noise and lights, and swaddling; and frequent high-calorie feedings.

The legislature further finds that drug exposed infants often require hospitalization which burdens hospitals and hospital staff who either have to increase staffing levels or require current staff to take on additional duties to administer the specialized care needed by drug exposed infants.

The legislature further finds that drug exposed infants benefit from early and consistent family involvement in their care, and families thrive when they are provided the opportunity, skills, and training to help them participate in their child's care.

The legislature further finds that infants with neonatal abstinence syndrome often can be treated in a nonhospital clinic setting where they receive appropriate medical and nonmedical care for their symptoms. The legislature, therefore, intends to encourage alternatives to continued hospitalization for drug exposed infants, including the continuation and development of pediatric transitional care services that provide short-term medical care as well as training and assistance to caregivers in order to support the transition from hospital to home for drug exposed infants.

Sec. 73. RCW 71.12.455 and 2001 c 254 s 1 are each amended to read as follows:

~~((As used in this chapter,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Establishment" and "institution" mean ((and include));
(a) Every private or county or municipal hospital, including public hospital districts, sanitarium, home, or other place receiving or caring for any ((mentally ill)) person with mental

illness, mentally incompetent person, or chemically dependent person; and
(b) Beginning January 1, 2019, facilities providing pediatric transitional care services.

(2) "Trained caregiver" means a noncredentialed, unlicensed person trained by the establishment providing pediatric transitional care services to provide hands-on care to drug exposed infants. Caregivers may not provide medical care to infants and may only work under the supervision of an appropriate health care professional.

(3) "Department" means the department of health.

(4) "Pediatric transitional care services" means short-term, temporary, health and comfort services for drug exposed infants according to the requirements of this chapter and provided in an establishment licensed by the department of health.

(5) "Secretary" means the secretary of the department of health.
NEW SECTION. Sec. 74. A new section is added to chapter 71.12 RCW to read as follows:

(1) An establishment providing pediatric transitional care services to drug exposed infants must demonstrate that it is capable of providing services for children who:

- (a) Are no more than one year of age;
- (b) Have been exposed to drugs before birth;
- (c) Require twenty-four hour continuous residential care and skilled nursing services as a result of prenatal substance exposure; and
- (d) Are referred to the establishment by the department of social and health services, regional hospitals, and private parties.

(2) After January 1, 2019, no person may operate or maintain an establishment that provides pediatric transitional care services without a license under this chapter.

NEW SECTION. Sec. 75. A new section is added to chapter 71.12 RCW to read as follows:

For the purposes of this chapter, the rules for pediatric transitional care services are not considered as a new department of social and health services service category.

NEW SECTION. Sec. 76. A new section is added to chapter 71.12 RCW to read as follows:

The secretary must, in consultation with the department of social and health services, adopt rules on pediatric transitional care services. The rules must:

- (1) Establish requirements for medical examinations and consultations which must be delivered by an appropriate health care professional;
- (2) Require twenty-four hour medical supervision for children receiving pediatric transitional services in accordance with the staffing ratios established under subsection (3) of this section;
- (3) Include staffing ratios that consider the number of registered nurses or licensed practical nurses employed by the establishment and the number of trained caregivers on duty at the establishment. These staffing ratios may not require more than:
 - (a) One registered nurse to be on duty at all times;
 - (b) One registered nurse or licensed practical nurse to eight infants; and
 - (c) One trained caregiver to four infants;
- (4) Require establishments that provide pediatric transitional care services to prepare weekly plans specific to each infant in their care and in accordance with the health care professional's standing orders. The health care professional may modify an infant's weekly plan without reexamining the infant if he or she determines the modification is in the best interest of the child. This modification may be communicated to the registered nurse on duty at the establishment who must then implement the modification. Weekly plans are to include short-term goals for

each infant and outcomes must be included in reports required by the department;

- (5) Ensure that neonatal abstinence syndrome scoring is conducted by an appropriate health care professional;
- (6) Establish drug exposed infant developmental screening tests for establishments that provide pediatric transitional care services to administer according to a schedule established by the secretary;
- (7) Require the establishment to collaborate with the department of social and health services to develop an individualized safety plan for each child and to meet other contractual requirements of the department of social and health services to identify strategies to meet supervision needs, medical concerns, and family support needs;
- (8) Establish the maximum amount of days an infant may be placed at an establishment;
- (9) Develop timelines for initial and ongoing parent-infant visits to nurture and help develop attachment and bonding between the child and parent, if such visits are possible. Timelines must be developed upon placement of the infant in the establishment providing pediatric transitional care services;
- (10) Determine how transportation for the infant will be provided, if needed;
- (11) Establish on-site training requirements for caregivers, volunteers, parents, foster parents, and relatives;
- (12) Establish background check requirements for caregivers, volunteers, employees, and any other person with unsupervised access to the infants under the care of the establishment; and
- (13) Establish other requirements necessary to support the infant and the infant's family.

NEW SECTION. Sec. 77. A new section is added to chapter 71.12 RCW to read as follows:

After referral by the department of social and health services of an infant to an establishment approved to provide pediatric transitional care services, the department of social and health services:

- (1) Retains primary responsibility for case management and must provide consultation to the establishment regarding all placements and permanency planning issues, including developing a parent-child visitation plan;
- (2) Must work with the department and the establishment to identify and implement evidence-based practices that address current and best medical practices and parent participation; and
- (3) Work with the establishment to ensure medicaid-eligible services are so billed.

NEW SECTION. Sec. 78. A new section is added to chapter 71.12 RCW to read as follows:

Facilities that provide pediatric transitional care services that are in existence on the effective date of this section are not subject to construction review by the department for initial licensure."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Fain moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5152.

Senator Fain spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fain that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5152.

The motion by Senator Fain carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5152 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5152, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5152, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE SENATE BILL NO. 5152, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5177 with the following amendment(s): 5177 AMH HCW H2393.1

Strike everything after the enacting clause and insert the following:

"**Sec. 79.** RCW 74.39A.074 and 2012 c 164 s 401 are each amended to read as follows:

(1)(a) (~~Beginning January 7, 2012,~~) Except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a) (~~and, until January 1, 2016, those exempt under RCW 18.88B.041(1)(b))~~), all persons hired as long-term care workers must meet the minimum training requirements in this section within one hundred twenty calendar days after the date of being hired (~~or within one hundred twenty calendar days after March 29, 2012, whichever is later. In computing the time periods in this subsection, the first day is the date of hire or March 29, 2012, whichever is applicable~~).

(b) Except as provided in RCW 74.39A.076, the minimum training requirement is seventy-five hours of entry-level training approved by the department. A long-term care worker must successfully complete five of these seventy-five hours before being eligible to provide care.

(c) Training required by (d) of this subsection applies toward the training required under RCW 18.20.270 or 70.128.230 or any statutory or regulatory training requirements for long-term care workers employed by community residential service businesses.

(d) The seventy-five hours of entry-level training required shall be as follows:

(i) Before a long-term care worker is eligible to provide care, he or she must complete:

(A) Two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment; and

(B) Three hours of safety training, including basic safety precautions, emergency procedures, and infection control; and

(ii) Seventy hours of long-term care basic training, including training related to:

(A) Core competencies; and

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(B) Population specific competencies, including identification of individuals with potential hearing loss and how to seek assistance if hearing loss is suspected.

(2) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

- (a) Has been developed with input from consumer and worker representatives; and
- (b) Requires comprehensive instruction by qualified instructors on the competencies and training topics in this section.
- (3) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.
- (4) The department shall adopt rules to implement this section."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Senate Bill No. 5177.

Senator Rivers spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Senate Bill No. 5177.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5177 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5177, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5177, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5177, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5234 with the following amendment(s): 5234.E AMH HE H2467.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 80. The legislature finds that advanced placement coursework prepares students for postsecondary success and provides opportunities for them to earn college credit or secure placement in advanced courses. The legislature further finds that eighty-four thousand eight hundred

sixty-six students took an AP exam in Washington state in 2015. The legislature further finds that six thousand six hundred sixty-seven of those students were underrepresented minority students and nine thousand four hundred seventy-one were low-income students. The legislature further finds that of the students that took an AP exam in Washington state in 2015, fifty-one thousand seven hundred twenty-five scored a three, four, or five.

Therefore, the legislature intends to establish a policy for granting as many undergraduate course credits as possible to students who have earned a minimum score of three on their AP exams and clearly communicate credit awarding policies and course equivalencies to students. The goal of the policy is to award course credit in all appropriate instances and maximize the number of college students given college credit for AP exam scores of three or higher.

NEW SECTION. Sec. 81. A new section is added to chapter 28B.10 RCW to read as follows:

(1) The institutions of higher education must establish a coordinated, evidence-based policy for granting as many undergraduate college credits to students who have earned minimum scores of three on AP exams as possible and appropriate.

(2) Credit policy regarding all AP exams must be posted on campus web sites effective for the 2017 fall academic term. The institutions of higher education must conduct biennial reviews of their AP credit policy and report noncompliance to the appropriate committees of the legislature by November 1st each year beginning November 1, 2019."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wilson moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5234.

Senator Wilson spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5234.

The motion by Senator Wilson carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5234 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5234, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5234, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

ENGROSSED SENATE BILL NO. 5234, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5258 with the following amendment(s): 5258-S2 AMH APP H2605.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 82. A new section is added to chapter 28A.215 RCW to read as follows:

(1) The Washington academic, innovation, and mentoring program is established.

(2) The purpose of the program is to enable eligible neighborhood youth development entities to provide out-of-school time programs for youth ages six to eighteen years of age that include educational services, social emotional learning, mentoring, and linkages to positive, prosocial leisure, and recreational activities. The programs must be designed for mentoring and academic enrichment.

(3) Eligible entities must meet the following requirements:

(a) Ensure that sixty percent or more of the academic, innovation, and mentoring program participants must qualify for free or reduced-price lunch;

(b) Have an existing partnership with the school district and a commitment to develop a formalized data-sharing agreement;

(c) Be facility based;

(d) Combine, or have a plan to combine, academics and social emotional learning;

(e) Engage in a continuous program quality improvement process;

(f) Conduct national criminal background checks for all employees and volunteers who work with children; and

(g) Have adopted standards for care including staff training, health and safety standards, and mechanisms for assessing and enforcing the program's compliance with the standards.

(4) Nonprofit entities applying for funding as a statewide network must:

(a) Have an existing infrastructure or network of academic, innovation, and mentoring program grant-eligible entities;

(b) Provide after-school and summer programs with youth development services; and

(c) Provide proven and tested recreational, educational, and character-building programs for children ages six to eighteen years of age.

(5) The office of the superintendent of public instruction must submit a report to the appropriate education and fiscal committees of the legislature by December 31, 2018, and an annual update by December 31 each year thereafter. The report must outline the programs established, target populations, and pretesting and posttesting results.

NEW SECTION. Sec. 83. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2017, in the omnibus appropriations act, this act is null and void."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Zeiger moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5258.

Senator Zeiger spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zeiger that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5258.

The motion by Senator Zeiger carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5258 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5258, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5258, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SECOND SUBSTITUTE SENATE BILL NO. 5258, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5266 with the following amendment(s): 5266.E AMH JUDI H2426.4

Strike everything after the enacting clause and insert the following:

"Sec. 84. RCW 9A.56.096 and 2012 c 30 s 1 are each amended to read as follows:

(1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains, or exerts unauthorized control over, or by color or aid of deception gains control of personal property that is rented, leased, or loaned by written agreement to the person, is guilty of theft of rental, leased, lease-purchased, or loaned property.

(2)(a) A person is guilty of theft of rental or leased property who, having control of personal property under a written rental or lease agreement, intentionally holds the property beyond the expiration of the rental or lease period without the effective consent of the owner of the property, depriving the owner of the property of its use in further rentals, and fails to return the property within seventy-two hours after receipt of proper notice.

(b) As used in this subsection (2), "proper notice" consists of a written demand by the owner or the owner's agent made after the due date of the rental or lease period, mailed by certified or registered mail to the renter or lessee at: (i) The address the renter or lessee gave when the contract was made; or (ii) the renter's or lessee's last known address if later furnished in writing by the renter or lessee or the agent of the renter or lessee.

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(c) It is not a defense that the person returned the personal property held under a rental or lease agreement if the return was made after the end of the seventy-two hour period following receipt of proper notice and the person fails to pay the applicable rental charge for the property for the time that the person held the personal property.

(d) Rental and leased property agreements must contain a warning that failure to return property and pay all outstanding obligations pursuant to the terms of the agreement may result in charges up to and including a gross misdemeanor. For purposes of this subsection, applicable rental charge is determined pursuant to the late return provisions in the written agreement; however, if the written agreement contains no late return provisions, applicable rental charge means a value equal to the terms of the written rental or lease agreement prorated from the due date of the rental or lease period through the receipt of the returned property.

(e) This subsection (2) applies only to rental and leased property agreements, and does not apply to lease-purchased property, rent to own property, medical equipment, and motor vehicles.

(3) The finder of fact may presume intent to deprive under subsection (1) of this section if the finder of fact finds either of the following:

(a) That the person who rented or leased the property failed to return or make arrangements acceptable to the owner of the property or the owner's agent to return the property to the owner or the owner's agent within seventy-two hours after receipt of proper notice following the due date of the rental, lease, lease-purchase, or loan agreement; or

(b) That the renter, lessee, or borrower presented identification to the owner or the owner's agent that was materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

~~((2))~~ (4) As used in subsection ((2)) (3) of this section, "proper notice" consists of a written demand by the owner or the owner's agent made after the due date of the rental, lease, lease-purchase, or loan period, mailed by certified or registered mail to the renter, lessee, or borrower at: (a) The address the renter, lessee, or borrower gave when the contract was made; or (b) the renter, lessee, or borrower's last known address if later furnished in writing by the renter, lessee, borrower, or the agent of the renter, lessee, or borrower.

~~((4))~~ (5) The replacement value of the property obtained must be utilized in determining the amount involved in the theft of rental, leased, lease-purchased, or loaned property.

~~((5))~~ (6)(a) Theft of rental, leased, lease-purchased, or loaned property is a class B felony if the rental, leased, lease-purchased, or loaned property is valued at five thousand dollars or more.

(b) Theft of rental, leased, lease-purchased, or loaned property is a class C felony if the rental, leased, lease-purchased, or loaned property is valued at seven hundred fifty dollars or more but less than five thousand dollars.

(c) Theft of rental, leased, lease-purchased, or loaned property is a gross misdemeanor if the rental, leased, lease-purchased, or loaned property is valued at less than seven hundred fifty dollars.

(d)(i)(A) Theft of rental or leased property under subsection (2) of this section is a gross misdemeanor if the outstanding obligation is valued at seven hundred fifty dollars or more;

(B) Theft of rental or leased property under subsection (2) of this section is a misdemeanor if the outstanding obligation is valued at two hundred fifty dollars or more but less than seven hundred fifty dollars;

(C) Theft of rental or leased property under subsection (2) of this section is a class I civil infraction if the outstanding obligation is valued at fifty dollars or more but less than two hundred fifty dollars.

(ii) This subsection (6)(d) applies only to rental and leased property, and does not apply to lease-purchased property, rent to own property, medical equipment, and motor vehicles.

~~((6))~~ (7) The crime of theft of rental, leased, lease-purchased, or loaned property may be deemed to have been committed either at the physical location where the written agreement for the rental, lease, lease-purchase, or loan of the property was executed under subsection (1) of this section, or at the address where proper notice may be mailed to the renter, lessee, or borrower under subsection ((3)) (4) of this section.

~~((7))~~ (8) This section applies to rental agreements that provide that the renter may return the property any time within the rental period and pay only for the time the renter actually retained the property, in addition to any minimum rental fee, to lease agreements, to lease-purchase agreements as defined under RCW 63.19.010, and to vehicles loaned to prospective purchasers borrowing a vehicle by written agreement from a motor vehicle dealer licensed under chapter 46.70 RCW. This section does not apply to rental or leasing of real property under the residential landlord-tenant act, chapter 59.18 RCW."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5266.

Senator O'Ban spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5266.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5266 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5266, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5266, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Hasegawa and Saldaña

ENGROSSED SENATE BILL NO. 5266, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5138 with the following amendment(s): 5138-S AMH KLOB WAYV 136

On page 5, line 11, after "~~purposes~~)," strike "parkway."

BERNARD DEAN, Chief Clerk

MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5138.

Senator Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5138.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5138 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5138, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5138, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Fain, Fortunato, Frockt, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Ericksen, Hasegawa, Honeyford and Padden

SUBSTITUTE SENATE BILL NO. 5138, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5327 with the following amendment(s): 5327-S AMH JUDI H2491.1

Strike everything after the enacting clause and insert the following:

"**Sec. 85.** RCW 2.32.050 and 2011 c 336 s 45 are each amended to read as follows:

The clerk of the supreme court, each clerk of the court of appeals, and each clerk of a superior court, has power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court, each clerk of the court of appeals, and of each county clerk for each of the courts for which he or she is clerk:

- (1) To keep the seal of the court and affix it in all cases where he or she is required by law;
- (2) To record the proceedings of the court;
- (3) To keep the records, files, and other books and papers appertaining to the court;
- (4) To file all papers delivered to him or her for that purpose in any action or proceeding in the court as directed by court rule or statute;
- (5) To attend the court of which he or she is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court;
- (6) To keep the (~~journal~~) minutes of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments, and decrees;
- (7) To authenticate by certificate or transcript, as may be required, the records, files, or proceedings of the court, or any other paper appertaining thereto and filed with him or her;
- (8) To exercise the powers and perform the duties conferred and imposed upon him or her elsewhere by statute;
- (9) In the performance of his or her duties to conform to the direction of the court;
- (10) To publish notice of the procedures for inspection of the public records of the court.

Sec. 86. RCW 26.09.231 and 2007 c 496 s 701 are each amended to read as follows:

The parties to dissolution matters shall file with the clerk of the court the residential time summary report. The summary report shall be on the form developed by the administrative office of the courts in consultation with the department of social and health services division of child support. The parties must complete the form and file the form with the court order. (~~The clerk of the court must forward the form to the division of child support on at least a monthly basis.~~)

Sec. 87. RCW 26.18.230 and 2007 c 496 s 702 are each amended to read as follows:

- (1) The administrative office of the courts in consultation with the department of social and health services, division of child support, shall develop a residential time summary report form to provide for the reporting of summary information in every case in which residential time with children is to be established or modified.
- (2) The residential time summary report must include at a minimum: A breakdown of residential schedules with a reasonable degree of specificity regarding actual time with each parent, including enforcement practices, representation status of the parties, whether domestic violence, child abuse, chemical dependency, or mental health issues exist, and whether the matter was agreed or contested.

~~((3) The division of child support shall compile and electronically transmit the information in the residential time summary reports to the administrative office of the courts for purposes of tracking residential time awards by parent, enforcement practices, representation status of the parties, the existence of domestic violence, child abuse, chemical dependency, or mental health issues and whether the matter was agreed or contested.~~

- (4) ~~The administrative office of the courts shall report the compiled information, organized by each county, on at least an annual basis. The information shall be itemized by quarter. These reports shall be made publicly available through the judicial information public access services and shall not contain any personal identifying information of parties in the proceedings.)"~~
Correct the title.

NONA SNELL, Deputy Chief Clerk

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MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5327.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5327.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5327 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5327, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5327, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Hasegawa

SUBSTITUTE SENATE BILL NO. 5327, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5358 with the following amendment(s): 5358-S AMH FIN H2551.1

Strike everything after the enacting clause and insert the following:

"PART I

Providing reasonable tools for the effective administration of the public utility district privilege tax

NEW SECTION. **Sec. 101.** A new section is added to chapter 54.28 RCW to read as follows:

(1) The following provisions of chapter 82.32 RCW apply with respect to the state taxes administered by the department of revenue under this chapter, unless the context clearly requires otherwise: RCW 82.32.050, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130, 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210, 82.32.235, 82.32.237, 82.32.240, 82.32.270, 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410, and any other provision of chapter 82.32 RCW specifically referenced in the statutes listed in this subsection (1).

(2) Chapter 82.32 RCW also applies with respect to the state taxes administered by the department of revenue under this chapter to the extent provided in any other provision of law.

(3) The definitions in this chapter have full force and application with respect to the application of chapter 82.32 RCW to this chapter unless the context clearly requires otherwise.

NEW SECTION. **Sec. 102.** RCW 54.28.030 (Districts' report to department of revenue) and 1977 ex.s. c 366 s 3, 1975 1st ex.s. c 278 s 30, 1959 c 274 s 3, & 1957 c 278 s 3 are each repealed.

Sec. 103. RCW 54.28.040 and 1996 c 149 s 16 are each amended to read as follows:

(1) Before May 1st of each calendar year through calendar year 2018, the department of revenue ~~((shall))~~ must compute the tax imposed by this chapter for the last preceding calendar year and notify the district of the amount thereof, which shall be payable on or before the following June 1st.

~~(2) ((If payment of any tax is not received by the department on or before the due date, there shall be assessed a penalty of five percent of the amount of the tax; if the tax is not received within one month of the due date, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within two months of the due date, there shall be assessed a total penalty of twenty percent of the amount of the tax-~~

~~(2))~~ (2)) For tax reporting periods beginning on or after January 1, 2018, taxpayers must report the taxes due under RCW 54.28.020 and 54.28.025 on returns as prescribed by the department of revenue. Except as otherwise provided in this subsection (2), taxes imposed in RCW 54.28.020 and 54.28.025 are due for a taxpayer at the same time as the taxpayer's payment of taxes imposed under chapters 82.04 and 82.16 RCW. The department of revenue may allow taxpayers to report and pay the taxes due under RCW 54.28.020 and 54.28.025 on an annual basis, even if they report taxes imposed under chapters 82.04 and 82.16 RCW more frequently than annually. In such cases, the taxes imposed in RCW 54.28.020 and 54.28.025 are due at the same time as the taxes under chapters 82.04 and 82.16 RCW for the taxpayer's final reporting period for the calendar year.

(3) The department of revenue may require persons to report such information as needed by the department to administer this chapter.

(4) Upon receipt of the amount of each tax imposed the department of revenue shall deposit the same with the state treasurer, who ~~((shall))~~ must deposit four percent of the revenues received under RCW 54.28.020(1) and 54.28.025(1) and all revenues received under RCW 54.28.020(2) and 54.28.025(2) in the general fund of the state and ~~((shall))~~ must distribute the remainder in the manner hereinafter set forth. The state treasurer ~~((shall))~~ must send a duplicate copy of each transmittal to the department of revenue.

Sec. 104. RCW 54.28.050 and 1982 1st ex.s. c 35 s 21 are each amended to read as follows:

~~((After computing the tax imposed by RCW 54.28.020(1);))~~ (1) Except as provided in subsection (2) of this section, the department of revenue ~~((shall))~~ must instruct the state treasurer, after placing thirty-seven and six-tenths percent of the taxes collected under RCW 54.28.020(1) in the state general fund to be dedicated for the benefit of the public schools, to distribute the balance collected under RCW 54.28.020(1)(a) to each county in proportion to the gross revenue from sales made within each county; and to distribute the balance collected under RCW 54.28.020(1) (b) and (c) as follows:

(a) If the entire generating facility, including reservoir, if any, is in a single county then all of the balance to the county where such generating facility is located~~(-);~~

(b) If any reservoir is in more than one county, then to each county in which the reservoir or any portion thereof is located a percentage equal to the percentage determined by dividing the total cost of the generating facilities, including adjacent switching facilities, into twice the cost of land and land rights acquired for any reservoir within each county, land and land rights to be defined the same as used by the federal ~~((power commission))~~ energy regulatory commission.

(c) If the powerhouse and dam, if any, in connection with such reservoir are in more than one county, the balance ~~((shall))~~ must be divided sixty percent to the county in which the owning district is located and forty percent to the other county or counties or if ~~((said))~~ the powerhouse and dam, if any, are owned by a joint operating agency organized under chapter 43.52 RCW, or by more than one district or are outside the county of the owning district, then to be divided equally between the counties in which such facilities are located. If all of the powerhouse and dam, if any, are in one county, then the balance ~~((shall))~~ must be distributed to the county in which the facilities are located.

(2) The department of revenue must instruct the state treasurer to adjust distributions under this section, in whole or in part, to account for each county's proportionate share of amounts previously distributed under this section and subsequently refunded to a public utility district under RCW 82.32.060.

(3) The provisions of this section ~~((shall))~~ do not apply to the distribution of taxes collected under RCW 54.28.025.

Sec. 105. RCW 54.28.055 and 1986 c 189 s 1 are each amended to read as follows:

(1) ~~((After computing the tax imposed by RCW 54.28.025(1)))~~ Except as provided in subsection (3) of this section, the department of revenue ~~((shall))~~ must instruct the state treasurer to distribute the amount collected under RCW 54.28.025(1) as follows:

(a) Fifty percent to the state general fund for the support of schools; and

(b) Twenty-two percent to the counties, twenty-three percent to the cities, three percent to the fire protection districts, and two percent to the library districts.

(2) Each county, city, fire protection district, and library district ~~((shall))~~ must receive a percentage of the amount for distribution to counties, cities, fire protection districts, and library districts, respectively, in the proportion that the population of such district residing within the impacted area bears to the total population of all such districts residing within the impacted area. For the purposes of this chapter, the term "library district" includes only regional libraries ~~((as defined in RCW 27.12.010(4)))~~, rural county library districts ~~((as defined in RCW 27.12.010(5)))~~, intercounty rural library districts ~~((as defined in RCW 27.12.010(6)))~~, and island library districts as those terms are defined in RCW 27.12.010((7)). The population of a library district, for purposes of such a distribution, ~~((shall))~~ does not include any population within the library district and the impact area that also is located within a city or town.

(3) Distributions under this section must be adjusted as follows:

(a) If any distribution pursuant to subsection (1)(b) of this section cannot be made, then that share ~~((shall))~~ must be prorated among the state and remaining local districts.

(b) The department of revenue must instruct the state treasurer to adjust distributions under this section, in whole or in part, to account for each county's, city's, fire protection district's, and library district's proportionate share of amounts previously distributed under this section and subsequently refunded to a public utility district under RCW 82.32.060.

(4) All distributions directed by this section to be made on the basis of population ~~((shall))~~ must be calculated in accordance with ~~((data to be provided))~~ population data as last determined by the office of financial management.

Sec. 106. RCW 82.32.105 and 1998 c 304 s 13 are each amended to read as follows:

(1) If the department ~~((of revenue))~~ finds that the payment by a taxpayer of a tax less than that properly due or the failure of a taxpayer to pay any tax by the due date was the result of circumstances beyond the control of the taxpayer, the department ~~((of revenue shall))~~ must waive or cancel any penalties imposed under this chapter with respect to such tax.

(2) The department ~~((shall))~~ must waive or cancel the penalty imposed under RCW 82.32.090(1) when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under subsection (1) of this section if:

(a) The taxpayer requests the waiver for a tax return required to be filed under RCW 54.28.040, 82.32.045, 82.14B.061, 82.23B.020, 82.27.060, 82.29A.050, or 84.33.086; and

(b) The taxpayer has timely filed and remitted payment on all tax returns due for that tax program for a period of twenty-four months immediately preceding the period covered by the return for which the waiver is being requested.

(3) The department ~~((shall))~~ must waive or cancel interest imposed under this chapter if:

(a) The failure to timely pay the tax was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of a due date for payment of an assessment of deficiency was not at the request of the taxpayer and was for the sole convenience of the department.

(4) The department ~~((of revenue shall))~~ must adopt rules for the waiver or cancellation of penalties and interest imposed by this chapter.

Sec. 107. RCW 82.32.350 and 1971 ex.s. c 299 s 23 are each amended to read as follows:

The department may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the preceding chapters of this title, or any tax in respect to which this section is specifically made applicable, for any taxable period or periods.

NEW SECTION. **Sec. 108.** Section 102 of this act does not apply with respect to reports due under RCW 54.28.030 in calendar year 2018 or any preceding calendar year.

NEW SECTION. **Sec. 109.** The repeal in section 102 of this act and the amendments in section 103 of this act do not affect any existing right acquired or liability or obligation incurred under the sections repealed or amended or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

Part II

Pet adoption fees

Sec. 201. RCW 82.04.040 and 2004 c 153 s 402 are each amended to read as follows:

(1) Except as otherwise provided in this subsection, "sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under RCW 82.04.050. It includes lease or rental, conditional sale contracts, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not. The term "sale" does not include the transfer of the ownership of, title to, or possession of an animal by an animal rescue organization in exchange for the payment of an adoption fee.

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(2) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.

(3)(a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. "Lease or rental" includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1), as amended or renumbered as of January 1, 2003. The definition in this subsection (3) (~~shall~~) must be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the United States internal revenue code, Washington state's commercial code, or other provisions of federal, state, or local law.

(b) "Lease or rental" does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments, and payment of an option price does not exceed the greater of one hundred dollars or one percent of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (3)(b)(iii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(4)(a) "Adoption fee" means an amount charged by an animal rescue organization to adopt an animal, except that "adoption fee" does not include any separately itemized charge for any incidental inanimate items provided to persons adopting an animal, including food, identification tags, collars, and leashes.

(b) "Animal care and control agency" means the same as in RCW 16.52.011 and also includes any similar entity operating outside of this state.

(c) "Animal rescue group" means a nonprofit organization that:

(i)(A) Is exempt from federal income taxation under 26 U.S.C. Sec. 501(c) of the federal internal revenue code as it exists on the effective date of this section; or

(B) Is registered as a charity with the Washington secretary of state under chapter 19.09 RCW, whether such registration is required by law or voluntary;

(ii) Has as its primary purpose the prevention of abuse, neglect, cruelty, exploitation, or homelessness of animals; and

(iii) Exclusively obtains dogs, cats, or other animals for placement that are:

(A) Stray or abandoned;

(B) Surrendered or relinquished by animal owners or caretakers;

(C) Transferred from other animal rescue organizations; or

(D) Born in the care of such nonprofit organization other than through intentional breeding by the nonprofit organization.

(d) "Animal rescue organization" means an animal care and control agency or an animal rescue group.

Sec. 202. RCW 82.04.190 and 2015 c 169 s 3 are each amended to read as follows:

"Consumer" means the following:

(1) Except as provided otherwise in this section, any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope

hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:

(a) Resale as tangible personal property in the regular course of business;

(b) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;

(c) Consuming such property in producing for sale as a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(d) Consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who makes a purchase meeting the definition of "sale at retail" and "retail sale" under RCW 82.04.050(15), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user of software. For purposes of this subsection (2)(f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6)(~~(b)~~) (c) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right-of-way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being

constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition may be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section may be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of possession of tangible personal property that, under the terms of an extended warranty as defined in RCW 82.04.050(7), has been repaired or is replacement property, but only with respect to the sale of or charge made for the repairing of the tangible personal property or the replacement property;

(10) Any person who purchases, acquires, or uses services described in RCW 82.04.050(6)(~~(b)~~) (c) other than:

(a) For resale in the regular course of business; or

(b) For purposes of consuming the service described in RCW 82.04.050(6)(~~(b)~~) (c) in producing for sale a new product, but only if such service becomes a component of the new product. For purposes of this subsection (10), "product" means a digital product, an article of tangible personal property, or the service described in RCW 82.04.050(6)(~~(b)~~) (c);

(11)(a) Any end user of a digital product or digital code. "Consumer" does not include any person who is not an end user of a digital product or a digital code and purchases, acquires, owns, holds, or uses any digital product or digital code for

purposes of consuming the digital product or digital code in producing for sale a new product, but only if the digital product or digital code becomes a component of the new product. A digital code becomes a component of a new product if the digital good or digital automated service acquired through the use of the digital code becomes incorporated into a new product. For purposes of this subsection, "product" has the same meaning as in subsection (10) of this section.

(b)(i) For purposes of this subsection, "end user" means any taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives by contract a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to others. A person that purchases digital products or digital codes for the purpose of giving away such products or codes will not be considered to have engaged in the distribution or redistribution of such products or codes and will be treated as an end user;

(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates;

(12) Any person who provides services described in RCW 82.04.050(9). Any such person is a consumer with respect to the purchase, acquisition, or use of the tangible personal property that the person provides along with an operator in rendering services defined as a retail sale in RCW 82.04.050(9). Any such person may also be a consumer under other provisions of this section;

(13) Any person who purchases, acquires, owns, holds, or uses chemical sprays or washes for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, or who purchases feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials, is not a consumer of such items, but only to the extent that the items:

(a) Are used in relation to the person's participation in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, the wildlife habitat incentives program, or their successors administered by the United States department of agriculture;

(b) Are for use by a farmer for the purpose of producing for sale any agricultural product; or

(c) Are for use by a farmer to produce or improve wildlife habitat on land the farmer owns or leases while acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife; (~~and~~)

(14) A regional transit authority is not a consumer with respect to labor, services, or tangible personal property purchased pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a transit agency, as defined in RCW 81.104.015, performs the labor or services; and

(15) The term "consumer" does not include:

(a) An animal rescue organization with respect to animals under its care and control; and

(b) Any person with respect to an animal adopted by that person from an animal rescue organization.

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NEW SECTION. Sec. 203. Sections 201 and 202 of this act apply both prospectively and retroactively to July 1, 2015.

Part III

Technical corrections and clarifications to 2015 legislation

Sec. 301. 2015 3rd sp.s. c 6 s 2301 (uncodified) is amended to read as follows:

- (1) Except as provided otherwise in this ~~(section)~~ part, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.
- (2) Parts IV, VI, VIII, and XIX of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect September 1, 2015.
- (3) Part X of this act takes effect October 1, 2016.
- (4) Section 1105 of this act takes effect January 1, 2016.
- (5) Except for section 2004 of this act, Part XX of this act takes effect January 1, 2019.
- (6) Section 2004 of this act takes effect January 1, 2022.

Sec. 302. 2015 3rd sp.s. c 6 s 2303 (uncodified) is amended to read as follows:

- ~~((Part VIII of this act expires July 1, 2019))~~ (1) Sections 802 and 804, chapter 6, Laws of 2015 3rd sp. sess. expire July 1, 2026;
- (2) Section 803, chapter 6, Laws of 2015 3rd sp. sess. expires January 1, 2026; and
- (3) Section 805, chapter 6, Laws of 2015 3rd sp. sess. expires January 1, 2031.

Sec. 303. 2015 3rd sp.s. c 6 s 801 (uncodified) is amended to read as follows:

- (1)(a) The legislature finds that a robust maritime industry is crucial for the state's economic vitality. The legislature further finds that:
 - (i) The joint task force for economic resilience of maritime and manufacturing established policy goals to continue efforts towards developing a robust maritime industry in the state;
 - (ii) The maritime industry has a direct and indirect impact on jobs in the state;
 - (iii) Many of the cities and towns impacted by the maritime industry are often small with limited resources to encourage economic growth, heavily relying on the maritime industry for local jobs and revenues in the community;
 - (iv) Keeping Washington competitive with other cruising destinations is essential to continue to build a robust maritime economy in the state; and
 - (v) Tax incentives are an imperative component to improve the state's overall competitiveness in this sector.
- (b) Therefore, the legislature intends to:
 - (i) Bolster the maritime industry in the state by incentivizing larger vessel owners to use Washington waters for recreational boating to increase economic activity and jobs in coastal communities and inland water regions of the state;
 - (ii) Achieve this objective in a fiscally responsible manner and require analysis of specific metrics to ensure valuable state resources are being used to accomplish the intended goal; and
 - (iii) Provide limited, short-term tax relief to entity-owned nonresident vessel owners that currently are not afforded the same benefits as other nonresident vessel owners.
- (2)(a) This subsection is the tax preference performance statement for the entity-owned nonresident vessel tax preference established in section 803 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

- (b) The legislature categorizes this tax preference as one intended to accomplish the purposes indicated in RCW 82.32.808(2)(c) and one intended to improve the state's competitiveness with other nearby cruising destinations.

- (c) It is the legislature's specific public policy objective to increase economic activity and jobs related to the maritime industry by providing a tax preference for large entity-owned nonresident vessels to increase the length of time these vessels cruise Washington waters in turn strengthening the maritime economy in the state.

- (d) To measure the effectiveness of the tax preference provided in part ~~((XII [VIII] of this act))~~ VIII, chapter 6, Laws of 2015 3rd sp. sess. in achieving the public policy objective in (c) of this subsection, the joint legislative audit and review committee must provide the following in a published evaluation of this tax preference by December 31, 2024:

- (i) A comparison of the gross and taxable revenue generated by businesses that sell or provide maintenance or repair of vessels, prior to and after the enactment of this tax preference;
- (ii) Analysis of retail sales taxes collected from the restaurant and service industries in coastal and inlet coastal jurisdictions, for both counties and cities, for periods prior to and after the enactment of this tax preference;
- (iii) Employment and wage trends for businesses described in (d)(i) and (ii) of this subsection, for periods prior to and after the enactment of this tax preference;
- (iv) Descriptive statistics for the number of permits sold each year in addition to the following information:

- (A) The cost for each permit by strata of vessel length;
- (B) The jurisdiction of ownership for the nonresident vessel; and
- (C) The amount of use tax that would have been due based on the estimated value of the vessel;
- (v) A comparison of the number of registered entity-owned and individually owned vessels registered in Washington prior to and after the enactment of this tax preference; and
- (vi) Data and analysis for Washington's main cruising destination competitors, specifically looking at tax preferences provided in those jurisdictions, vessel industry income data, and any additional relevant information to compare Washington's maritime climate with its competitors.

- (e) The provision of RCW 82.32.808(5) does not apply to this tax preference.

Sec. 304. 2015 3rd sp.s. c 30 s 1 (uncodified) is amended to read as follows:

This section is the tax preference performance statement for the tax preference contained in section 2 ~~((of this act)),~~ chapter 30, Laws of 2015 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

- (1) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).
- (2) It is the legislature's specific public policy objective to provide tax relief to senior citizens, disabled persons, and veterans. The legislature recognizes that property taxes impose a substantial financial burden on those with fixed incomes and that property tax relief programs have considerable value in addressing this burden. It is the legislature's intent to increase the current statutory static income thresholds which were last modified in 2004.
- (3) ~~((The expansion of the items allowed to be deducted))~~ This tax preference is meant to be permanent and, therefore, not

subject to the ten-year expiration provision in RCW 82.32.805(1)(a).

NEW SECTION. Sec. 305. Nothing in section 204, chapter 5, Laws of 2015 3rd sp. sess. may be construed as affecting the taxable status in calendar year 2015 of any person with a substantial nexus with this state under RCW 82.04.067 any time on or after January 1, 2015, and before September 1, 2015, with respect to business and occupation taxes on apportionable activities as defined in RCW 82.04.460.

NEW SECTION. Sec. 306. Section 305 of this act applies retroactively for the period January 1, 2015, through December 31, 2015.

Part IV

Automated sales suppression devices and phantom-ware

Sec. 401. RCW 82.32.670 and 2013 c 309 s 3 are each amended to read as follows:

(1)(a) Automated sales suppression devices, phantom-ware, electronic cash registers or point of sale systems used with automated sales suppression devices or phantom-ware, and any property constituting proceeds traceable to any violation of RCW 82.32.290(4) are considered contraband and are subject to seizure and forfeiture.

(b) Property subject to forfeiture under (a) of this subsection (1) may be seized by any agent of the department authorized to assess or collect taxes, or law enforcement officer of this state, upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(i) The seizure is incident to an arrest or a search under a search warrant; or

(ii) The department or the law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of RCW 82.32.290(4) and exigent circumstances exist making procurement of a search warrant impracticable.

(2) Forfeiture authorized by this section is deemed to have commenced by the seizure. Notice of seizure must be given to the department if the seizure is made by a law enforcement officer without the presence of any agent of the department. The department must cause notice of the seizure and intended forfeiture to be served on the owner of the property seized, if known, and on any other person known by the department to have a right or interest in the seized property. Such service must be made within fifteen days following the seizure or the department's receipt of notification of the seizure. The notice may be served by any method authorized by law or court rule, by certified mail with return receipt requested, or electronically in accordance with RCW 82.32.135. Service by certified mail or electronic means is deemed complete upon mailing the notice, electronically sending the notice, or electronically notifying the person or persons entitled to the notice that the notice is available to be accessed by the person or persons, within the fifteen-day period following the seizure or the department's receipt of notification of the seizure.

(3) If no person notifies the department in writing of the person's claim of lawful ownership or right to lawful possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the item or items seized are deemed forfeited.

(4)(a) If any person notifies the department, in writing, of the person's claim of lawful ownership or lawful right to possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the person or persons must be afforded a reasonable opportunity to be heard as to the claim. The hearing must be before the director or the director's designee. A hearing and any administrative or judicial review is governed by chapter 34.05 RCW. The burden of proof by a preponderance of the evidence is upon the person claiming

to be the lawful owner or the person claiming to have the lawful right to possession of the item or items seized.

(b) The department must return the item or items to the claimant as soon as possible upon a determination that the claimant is the present lawful owner or is lawfully entitled to possession of the item or items seized.

(5) When property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of RCW 82.32.290(4), the department must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of RCW 82.32.290(4).

(6)(a) When automated sales suppression devices or phantom-ware voluntarily surrendered to an agent of the department, or property forfeited under this section, other than proceeds traceable to a violation of RCW 82.32.290(4), is no longer required for evidentiary purposes, the department may:

(i) Destroy or have the property destroyed;

(ii) Retain the property for training or other official purposes; or

(iii) Loan or give the property to any law enforcement or tax administration agency of any state, political subdivision or municipal corporation of a state, or the United States for training or other official purposes. For purposes of this subsection

(6)(a)(iii), "state" has the same meaning as in RCW 82.04.462.

(b) When proceeds traceable to a violation of RCW 82.32.290(4) forfeited under this section are no longer required for evidentiary purposes, they must be deposited into the general fund.

(7) The definitions in this subsection apply to this section:

(a) "Automated sales suppression device" means a software program that falsifies the electronic records of electronic cash registers or other point of sale systems, including transaction data and transaction reports. The term includes the software program, any device that carries the software program, or an internet link to the software program.

(b) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing sales transaction data in whatever manner.

(c) "Phantom-ware" means a programming option that is hidden, preinstalled, or installed-at-a-later-time in the operating system of an electronic cash register or other point of sale device, or hardwired into the electronic cash register or other point of sale device, and that can be used to create a virtual second till or may eliminate or manipulate transaction reports that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register or other point of sale device.

(d) "Transaction data" means information about sales transactions, including items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(e) "Transaction reports" means a report that includes information associated with sales transactions, taxes collected, media totals, and discount voids at an electronic cash register that can be printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register or other point of sale device and that is stored electronically.

Part V

Miscellaneous technical corrections

Sec. 501. RCW 82.04.261 and 2010 1st sp.s. c 23 s 510 are each amended to read as follows:

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(1) In addition to the taxes imposed under RCW 82.04.260(~~((44))~~) (12), a surcharge is imposed on those persons who are subject to any of the taxes imposed under RCW 82.04.260(~~((44))~~) (12). Except as otherwise provided in this section, the surcharge is equal to 0.052 percent. The surcharge is added to the rates provided in RCW 82.04.260(~~((44))~~) (12) (a), (b), (c), and (d). The surcharge and this section expire July 1, 2024.

(2) All receipts from the surcharge imposed under this section must be deposited into the forest and fish support account created in RCW 76.09.405.

(3)(a) The surcharge imposed under this section is suspended if:

(i) Receipts from the surcharge total at least eight million dollars during any fiscal biennium; or

(ii) The office of financial management certifies to the department that the federal government has appropriated at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington for any federal fiscal year.

(b)(i) The suspension of the surcharge under (a)(i) of this subsection (3) takes effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge total at least eight million dollars during the fiscal biennium. The surcharge is imposed again at the beginning of the following fiscal biennium.

(ii) The suspension of the surcharge under (a)(ii) of this subsection (3) takes effect on the later of the first day of October of any federal fiscal year for which the federal government appropriates at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington, or the first day of a calendar month that is at least thirty days following the date that the office of financial management makes a certification to the department under subsection (5) of this section. The surcharge is imposed again on the first day of the following July.

(4)(a) If, by October 1st of any federal fiscal year, the office of financial management certifies to the department that the federal government has appropriated funds for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington but the amount of the appropriation is less than two million dollars, the department must adjust the surcharge in accordance with this subsection.

(b) The department must adjust the surcharge by an amount that the department estimates will cause the amount of funds deposited into the forest and fish support account for the state fiscal year that begins July 1st and that includes the beginning of the federal fiscal year for which the federal appropriation is made, to be reduced by twice the amount of the federal appropriation for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington.

(c) Any adjustment in the surcharge takes effect at the beginning of a calendar month that is at least thirty days after the date that the office of financial management makes the certification under subsection (5) of this section.

(d) The surcharge is imposed again at the rate provided in subsection (1) of this section on the first day of the following state fiscal year unless the surcharge is suspended under subsection (3) of this section or adjusted for that fiscal year under this subsection.

(e) Adjustments of the amount of the surcharge by the department are final and may not be used to challenge the validity of the surcharge imposed under this section.

(f) The department must provide timely notice to affected taxpayers of the suspension of the surcharge or an adjustment of the surcharge.

(5) The office of financial management must make the certification to the department as to the status of federal appropriations for tribal participation in forest and fish report-related activities.

Sec. 502. RCW 82.04.334 and 2010 1st sp.s. c 23 s 512 are each amended to read as follows:

This chapter does not apply to any sale of standing timber excluded from the definition of "sale" in RCW 82.45.010(3). The definitions in RCW 82.04.260(~~((44))~~) (12) apply to this section.

Sec. 503. RCW 82.04.43391 and 2010 1st sp.s. c 23 s 112 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax interest and fees on loans secured by commercial aircraft primarily used to provide routine air service and owned by:

(a) An air carrier, as defined in RCW (~~(82.42.030)~~) 82.42.010, which is primarily engaged in the business of providing passenger air service;

(b) An affiliate of such air carrier; or

(c) A parent entity for which such air carrier is an affiliate.

(2) The deduction authorized under this section is not available to any person who is physically present in this state as determined under RCW 82.04.067(6).

(3) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person is "affiliated," as defined in RCW 82.04.645, with another person; and

(b) "Commercial aircraft" means a commercial airplane as defined in RCW 82.32.550.

NEW SECTION. Sec. 504. RCW 82.04.4483 (Credit—Programming or manufacturing software in rural counties) and 2010 c 114 s 119 & 2004 c 25 s 1 are each repealed.

Sec. 505. RCW 82.32.030 and 2011 c 298 s 38 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, if any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, he or she must, under such rules as the department prescribes, apply for and obtain from the department a registration certificate. Such registration certificate is personal and nontransferable and is valid as long as the taxpayer continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public is required. Each certificate must be numbered and must show the name, residence, and place and character of business of the taxpayer and such other information as the department of revenue deems necessary and must be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the department the existing certificate, and a new certificate will be issued for the new place of business. No person required to be registered under this section may engage in any business taxable hereunder without first being so registered. The department, by rule, may provide for the issuance of certificates of registration to temporary places of business.

(2) Unless the person is a dealer as defined in RCW 9.41.010, registration under this section is not required if the following conditions are met:

- (a) A person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twelve thousand dollars per year;
- (b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twelve thousand dollars per year;
- (c) The person is not required to collect or pay to the department of revenue any other tax or fee (~~(which)~~) that the department is authorized to collect; and
- (d) The person is not otherwise required to obtain a license subject to the (~~(master)~~) business license application procedure provided in chapter 19.02 RCW.
- (3) All persons who agree to collect and remit sales and use tax to the department under the agreement must register through the central registration system authorized under the agreement. Persons required to register under subsection (1) of this section are not relieved of that requirement because of registration under this subsection (3).
- (4) Persons registered under subsection (3) of this section who are not required to register under subsection (1) of this section and who are not otherwise subject to the requirements of chapter 19.02 RCW are not subject to the fees imposed by the department under the authority of RCW 19.02.075.

Sec. 506. RCW 84.34.108 and 2014 c 97 s 311 and 2014 c 58 s 28 are each reenacted and amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification must be made each year upon the assessment and tax rolls and the land must be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

- (a) Receipt of notice from the owner to remove all or a portion of the classification;
- (b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;
- (c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner or transfer by a transfer on death deed does not, by itself, result in removal of classification. The notice of continuance must be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes, applicable interest, and penalty calculated pursuant to subsection (4) of this section become due and payable by the seller or transferor at time of sale. The auditor may not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax, applicable interest, and penalty has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;
- (d)(i) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

(ii) The granting authority, upon request of an assessor, must provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance must be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

- (a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or
- (b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.
- (3) Within thirty days after the removal of all or a portion of the land from current use classification under subsection (1) of this section, the assessor must notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038. The removal notice must explain the steps needed to appeal the removal decision, including when a notice of appeal must be filed, where the forms may be obtained, and how to contact the county board of equalization.

(4) Unless the removal is reversed on appeal, the assessor must revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification must be listed and taxes must be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty must be imposed, which are due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax, applicable interest, and penalty. As soon as possible, the assessor must compute the amount of additional tax, applicable interest, and penalty and the treasurer must mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty must be determined as follows:

- (a) The amount of additional tax is equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timberland" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;
- (b) The amount of applicable interest is equal to the interest upon the amounts of the additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter;
- (c) The amount of the penalty is as provided in RCW 84.34.080. The penalty may not be imposed if the removal satisfies the conditions of RCW 84.34.070.
- (5) Additional tax, applicable interest, and penalty become a lien on the land (~~(which)~~). The lien attaches at the time the land is removed from classification under this chapter and (~~(have)~~) has priority to and must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. This lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any additional tax unpaid on the due date (~~(are is)~~) is delinquent as of the due date. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.
- (6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section may not be imposed if the removal

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of classification pursuant to subsection (1) of this section resulted solely from:

- (a) Transfer to a government entity in exchange for other land located within the state of Washington;
- (b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;
- (c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;
- (d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;
- (e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;
- (f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section must be imposed;
- (g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(f);
- (h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;
- (i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;
- (j) The creation, sale, or transfer of a conservation easement of private forestlands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;
- (k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forestland, designated as forestland under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k); or
- (l)(i) The discovery that the land was classified under this chapter in error through no fault of the owner. For purposes of this subsection (6)(l), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of classification under this chapter or the failure of the assessor to remove the land from classification under this chapter.
- (ii) For purposes of this subsection (6), the discovery that land was classified under this chapter in error through no fault of the owner is not the sole reason for removal of classification pursuant to subsection (1) of this section if an independent basis for removal exists. Examples of an independent basis for removal include the owner changing the use of the land or failing to meet any applicable income criteria required for classification under this chapter.

Sec. 507. RCW 84.41.041 and 2015 c 86 s 103 are each amended to read as follows:

(1) Each county assessor must cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan must provide that all taxable real property within a county must be revalued and these newly determined values

placed on the assessment rolls each year. Property must be valued at one hundred percent of its true and fair value and assessed on the same basis, in accordance with RCW 84.40.030, unless specifically provided otherwise by law. ~~((During the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years,))~~ During the intervals between each physical inspection of real property, the valuation of such property must be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.

(2) The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

Sec. 508. RCW 82.04.280 and 2010 c 106 s 205 are each reenacted to read as follows:

(1) Upon every person engaging within this state in the business of: (a) Printing materials other than newspapers, and of publishing periodicals or magazines; (b) building, repairing or improving any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (c) extracting for hire or processing for hire, except persons taxable as extractors for hire or processors for hire under another section of this chapter; (d) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (e) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW; (f) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the federal communications commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (g) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

(b) "Storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for

storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. "Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under RCW 82.04.272 is conducted.

(c) "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

Sec. 509. RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s 401 are each reenacted and amended to read as follows:

(1)(a) (~~(Section 206, chapter 106, Laws of 2010,)~~ Sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, (~~(section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006,)~~) and sections ~~((4))~~ 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) (~~(Chapter 149, Laws of 2003 takes)~~) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of (~~(sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010 section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006, and section 4, chapter 149, Laws of 2003))~~ the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and (~~(chapter 149, Laws of 2003 is)~~) the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under (~~(section 2 or 5 through 10, chapter 149, Laws of 2003))~~ RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not authorized to make a second determination regarding the effective date of (~~(chapter 149, Laws of 2003))~~ the sections referenced in subsection (1) of this section.

NEW SECTION. Sec. 510. The following acts or parts of acts are each repealed:

- (1) 2010 c 106 s 206;
- (2) 2009 c 461 s 3;
- (3) 2006 c 300 s 7; and
- (4) 2003 c 149 s 4.

Sec. 511. RCW 35.102.130 and 2010 c 111 s 305 are each amended to read as follows:

A city that imposes a business and occupation tax must provide for the allocation and apportionment of a person's gross income, other than persons subject to the provisions of chapter 82.14A RCW, as follows:

(1) Gross income derived from all activities other than those taxed as service or royalties must be allocated to the location where the activity takes place.

(a) In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

(b)(i) In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

(A) The seller's place of business if the purchaser receives the digital product at the seller's place of business;

(B) If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(C) If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(D) If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

(E) If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(~~(b))~~) (c) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(ii) If none of the methods in (b)(i) of this subsection (1) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in (b)(i)(A) through (E) of this subsection (1), then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection (1)(b)(ii). The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in (b)(i)(A) through (E) of this subsection (1) are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

(iii) For purposes of this subsection (1)(b), the following definitions apply:

(A) "Digital automated services," "digital codes," and "digital goods" have the same meaning as in RCW 82.04.192;

(B) "Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050 (2)(g) and (6)(~~(b))~~) (c); and

(C) "Receive" has the same meaning as in RCW 82.32.730.

(c) If a business activity allocated under this subsection (1) takes place in more than one city and all cities impose a gross receipts tax, a credit must be allowed as provided in RCW 35.102.060; if not all of the cities impose a gross receipts tax, the affected cities must allow another credit or allocation system as they and the taxpayer agree.

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(2) Gross income derived as royalties from the granting of intangible rights must be allocated to the commercial domicile of the taxpayer.

(3) Gross income derived from activities taxed as services shall be apportioned to a city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service-income factor and the denominator of which is two.

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:

- (i) The individual is primarily assigned within the city;
- (ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of his or her service for the tax period in the city; or
- (iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of his or her service in any city, and the employee resides in the city.

(b) The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if:

- (i) The customer location is in the city; or
- (ii) The income-producing activity is performed in more than one location and a greater proportion of the service-income-producing activity is performed in the city than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or
- (iii) The service-income-producing activity is performed within the city, and the taxpayer is not taxable in the customer location.

(c) If the allocation and apportionment provisions of this subsection do not fairly represent the extent of the taxpayer's business activity in the city or cities in which the taxpayer does business, the taxpayer may petition for or the tax administrators may jointly require, in respect to all or any part of the taxpayer's business activity, that one of the following methods be used jointly by the cities to allocate or apportion gross income, if reasonable:

- (i) Separate accounting;
- (ii) The use of a single factor;
- (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
- (iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(4) The definitions in this subsection apply throughout this section.

(a) "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.

(b) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.

(c) "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(d) "Customer location" means the city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place.

(e) "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.

(f) "Service-taxable income" or "service income" means gross income of the business subject to tax under either the service or royalty classification.

(g) "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

(h) "Taxable in the customer location" means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business, or that the government where the customer is located has the authority to subject the taxpayer to gross receipts tax regardless of whether, in fact, the government does so.

Sec. 512. RCW 82.04.060 and 2015 c 169 s 2 are each amended to read as follows:

"Sale at wholesale" or "wholesale sale" means:

- (1) Any sale, which is not a sale at retail, of:
 - (a) Tangible personal property;
 - (b) Services defined as a retail sale in RCW 82.04.050(2) (a) or (g);
 - (c) Activities defined as a retail sale in RCW 82.04.050(15);
 - (d) Prewritten computer software;
 - (e) Services described in RCW 82.04.050(6)(~~(b)~~) (c);
 - (f) Extended warranties as defined in RCW 82.04.050(7);
 - (g) Competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065; or
 - (h) Digital goods, digital codes, or digital automated services;
- (2) Any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For the purposes of this subsection (2), "real or personal property" does not include any natural products named in RCW 82.04.100; and
- (3) The sale of any service for resale, if the sale is excluded from the definition of "sale at retail" and "retail sale" in RCW 82.04.050(14).

Sec. 513. RCW 82.04.190 and 2015 c 169 s 3 are each amended to read as follows:

"Consumer" means the following:

- (1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:
 - (a) Resale as tangible personal property in the regular course of business;
 - (b) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;
 - (c) Consuming such property in producing for sale as a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is

to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(d) Consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who makes a purchase meeting the definition of "sale at retail" and "retail sale" under RCW 82.04.050(15), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user of software. For purposes of this subsection (2)(f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6)((b)) (c) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right-of-way of such street, place, road, highway, easement, bridge, tunnel, or trestle in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition may be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section may be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of possession of tangible personal property that, under the terms of an extended warranty as defined in RCW 82.04.050(7), has been repaired or is replacement property, but only with respect to the sale of or charge made for the repairing of the tangible personal property or the replacement property;

(10) Any person who purchases, acquires, or uses services described in RCW 82.04.050(6)((b)) (c) other than:

(a) For resale in the regular course of business; or

(b) For purposes of consuming the service described in RCW 82.04.050(6)((b)) (c) in producing for sale a new product, but only if such service becomes a component of the new product. For purposes of this subsection (10), "product" means a digital product, an article of tangible personal property, or the service described in RCW 82.04.050(6)((b)) (c);

(11)(a) Any end user of a digital product or digital code. "Consumer" does not include any person who is not an end user of a digital product or a digital code and purchases, acquires, owns, holds, or uses any digital product or digital code for purposes of consuming the digital product or digital code in producing for sale a new product, but only if the digital product or digital code becomes a component of the new product. A digital code becomes a component of a new product if the digital good or digital automated service acquired through the use of the digital code becomes incorporated into a new product. For purposes of this subsection, "product" has the same meaning as in subsection (10) of this section.

(b)(i) For purposes of this subsection, "end user" means any taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives by contract a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to others. A person that purchases

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digital products or digital codes for the purpose of giving away such products or codes will not be considered to have engaged in the distribution or redistribution of such products or codes and will be treated as an end user;

(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates;

(12) Any person who provides services described in RCW 82.04.050(9). Any such person is a consumer with respect to the purchase, acquisition, or use of the tangible personal property that the person provides along with an operator in rendering services defined as a retail sale in RCW 82.04.050(9). Any such person may also be a consumer under other provisions of this section;

(13) Any person who purchases, acquires, owns, holds, or uses chemical sprays or washes for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, or who purchases feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials, is not a consumer of such items, but only to the extent that the items:

(a) Are used in relation to the person's participation in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, the wildlife habitat incentives program, or their successors administered by the United States department of agriculture;

(b) Are for use by a farmer for the purpose of producing for sale any agricultural product; or

(c) Are for use by a farmer to produce or improve wildlife habitat on land the farmer owns or leases while acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife; and

(14) A regional transit authority is not a consumer with respect to labor, services, or tangible personal property purchased pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a transit agency, as defined in RCW 81.104.015, performs the labor or services.

Sec. 514. RCW 82.04.192 and 2010 c 111 s 203 are each amended to read as follows:

(1) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones.

(2) "Digital audiovisual works" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(3)(a) "Digital automated service," except as provided in (b) of this subsection (3), means any service transferred electronically that uses one or more software applications.

(b) "Digital automated service" does not include:

(i) Any service that primarily involves the application of human effort by the seller, and the human effort originated after the customer requested the service;

(ii) The loaning or transferring of money or the purchase, sale, or transfer of financial instruments. For purposes of this subsection (3)(b)(ii), "financial instruments" include cash, accounts

receivable and payable, loans and notes receivable and payable, debt securities, equity securities, as well as derivative contracts such as forward contracts, swap contracts, and options;

(iii) Dispensing cash or other physical items from a machine;

(iv) Payment processing services;

(v) Parimutuel wagering and handicapping contests as authorized by chapter 67.16 RCW;

(vi) Telecommunications services and ancillary services as those terms are defined in RCW 82.04.065;

(vii) The internet and internet access as those terms are defined in RCW 82.04.297;

(viii) The service described in RCW 82.04.050(6)((~~bb~~)) (c);

(ix) Online educational programs provided by a:

(A) Public or private elementary or secondary school; or

(B) An institution of higher education as defined in sections 1001 or 1002 of the federal higher education act of 1965 (Title 20 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For purposes of this subsection (3)(b)(ix)(B), an online educational program must be encompassed within the institution's accreditation;

(x) Live presentations, such as lectures, seminars, workshops, or courses, where participants are connected to other participants via the internet or telecommunications equipment, which allows audience members and the presenter or instructor to give, receive, and discuss information with each other in real time;

(xi) Travel agent services, including online travel services, and automated systems used by travel agents to book reservations;

(xii)(A) A service that allows the person receiving the service to make online sales of products or services, digital or otherwise, using either: (I) The service provider's web site; or (II) the service recipient's web site, but only when the service provider's technology is used in creating or hosting the service recipient's web site or is used in processing orders from customers using the service recipient's web site.

(B) The service described in this subsection (3)(b)(xii) does not include the underlying sale of the products or services, digital or otherwise, by the person receiving the service;

(xiii) Advertising services. For purposes of this subsection (3)(b)(xiii), "advertising services" means all services directly related to the creation, preparation, production, or the dissemination of advertisements. Advertising services include layout, art direction, graphic design, mechanical preparation, production supervision, placement, and rendering advice to a client concerning the best methods of advertising that client's products or services. Advertising services also include online referrals, search engine marketing and lead generation optimization, web campaign planning, the acquisition of advertising space in the internet media, and the monitoring and evaluation of web site traffic for purposes of determining the effectiveness of an advertising campaign. Advertising services do not include web hosting services and domain name registration;

(xiv) The mere storage of digital products, digital codes, computer software, or master copies of software. This exclusion from the definition of digital automated services includes providing space on a server for web hosting or the backing up of data or other information;

(xv) Data processing services. For purposes of this subsection (3)(b)(xv), "data processing service" means a primarily automated service provided to a business or other organization where the primary object of the service is the systematic performance of operations by the service provider on data supplied in whole or in part by the customer to extract the required information in an appropriate form or to convert the data to usable information. Data processing services include check processing, image processing, form processing, survey processing, payroll

processing, claim processing, and similar activities. Data processing does not include the service described in RCW 82.04.050(6)((b)) (c); and

(xvi) Digital goods.

(4) "Digital books" means works that are generally recognized in the ordinary and usual sense as books.

(5) "Digital code" means a code that provides a purchaser with the right to obtain one or more digital products, if all of the digital products to be obtained through the use of the code have the same sales and use tax treatment. "Digital code" does not include a code that represents a stored monetary value that is deducted from a total as it is used by the purchaser. "Digital code" also does not include a code that represents a redeemable card, gift card, or gift certificate that entitles the holder to select digital products of an indicated cash value. A digital code may be obtained by any means, including email or by tangible means regardless of its designation as song code, video code, book code, or some other term.

(6)(a) "Digital goods," except as provided in (b) of this subsection (6), means sounds, images, data, facts, or information, or any combination thereof, transferred electronically, including, but not limited to, specified digital products and other products transferred electronically not included within the definition of specified digital products.

(b) The term "digital goods" does not include:

(i) Telecommunications services and ancillary services as those terms are defined in RCW 82.04.065;

(ii) Computer software as defined in RCW 82.04.215;

(iii) The internet and internet access as those terms are defined in RCW 82.04.297;

(iv)(A) Except as provided in (b)(iv)(B) of this subsection (6), the representation of a personal or professional service in electronic form, such as an electronic copy of an engineering report prepared by an engineer, where the service primarily involves the application of human effort by the service provider, and the human effort originated after the customer requested the service.

(B) The exclusion in (b)(iv)(A) of this subsection (6) does not apply to photographers in respect to amounts received for the taking of photographs that are transferred electronically to the customer, but only if the customer is an end user, as defined in RCW 82.04.190(11), of the photographs. Such amounts are considered to be for the sale of digital goods; and

(v) Services and activities excluded from the definition of digital automated services in subsection (3)(b)(i) through (xv) of this section and not otherwise described in (b)(i) through (iv) of this subsection (6).

(7) "Digital products" means digital goods and digital automated services.

(8) "Electronically transferred" or "transferred electronically" means obtained by the purchaser by means other than tangible storage media. It is not necessary that a copy of the product be physically transferred to the purchaser. So long as the purchaser may access the product, it will be considered to have been electronically transferred to the purchaser.

(9) "Specified digital products" means electronically transferred digital audiovisual works, digital audio works, and digital books.

(10) "Subscription radio services" means the sale of audio programming by a radio broadcaster as defined in RCW 82.08.02081, except as otherwise provided in this subsection.

"Subscription radio services" does not include audio programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service.

(11) "Subscription television services" means the sale of video programming by a television broadcaster as defined in RCW 82.08.02081, except as otherwise provided in this subsection.

"Subscription television services" does not include video programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service, but only if the seller is not subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived from the sale.

Sec. 515. RCW 82.04.257 and 2010 c 111 s 301 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, upon every person engaging within this state in the business of making sales at retail or wholesale of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)((b)) (c), as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent in the case of retail sales and by the rate of 0.484 percent in the case of wholesale sales.

(2) Persons providing subscription television services or subscription radio services are subject to tax under RCW 82.04.290(2) on the gross income of the business received from providing such services.

(3) For purposes of this section, a person is considered to be engaging within this state in the business of making sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)((b)) (c), if the person makes sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)((b)) (c) and the sales are sourced to this state under RCW 82.32.730 for sales tax purposes or would have been sourced to this state under RCW 82.32.730 if the sale had been taxable under chapter 82.08 RCW.

(4) A person subject to tax under this section is subject to the mandatory electronic filing and payment requirements in RCW 82.32.080.

Sec. 516. RCW 82.04.258 and 2009 c 535 s 402 are each amended to read as follows:

(1)(a) Any person subject to tax under RCW 82.04.257 engaging both within and outside this state in the business of making sales at retail or wholesale of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)((b)) (c), must apportion to this state that portion of apportionable income derived from activity performed within this state as provided in subsection (2) of this section.

(b) For purposes of this subsection, a person is considered to be engaging outside this state in the business of making sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)((b)) (c) if the person makes any sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)((b)) (c) that are sourced to a jurisdiction other than Washington under RCW 82.32.730 for sales tax purposes or would have been sourced to a jurisdiction other than Washington under RCW 82.32.730 if the sale had been a retail sale.

(2) Apportionable income must be apportioned to Washington by multiplying the apportionable income by the sales factor.

(3)(a) The sales factor is a fraction, the numerator of which is the total receipts of the taxpayer from making sales of digital goods, digital codes, digital automated services, and services described in RCW 82.04.050 (2)(g) or (6)((b)) (c) in this state during the tax period, and the denominator of which is the total receipts of the taxpayer derived from such activity everywhere during the tax period.

(b) For purposes of computing the sales factor, sales are considered in this state if the sale was sourced to this state under RCW 82.32.730 for sales tax purposes or would have been

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sourced to this state under RCW 82.32.730 if the sale had been taxable under chapter 82.08 RCW.

(4) For purposes of this section, "apportionable income" means the gross income of the business taxable under RCW 82.04.257, including income received from activities outside this state if the income would be taxable under RCW 82.04.257 if received from activities in this state.

Sec. 517. RCW 82.08.02082 and 2010 c 111 s 401 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to a business or other organization for the purpose of making the digital good or digital automated service, including a digital good or digital automated service acquired through the use of a digital code, or service defined as a retail sale in RCW 82.04.050(6)((b)) (c) available free of charge for the use or enjoyment of the general public. The exemption provided in this section does not apply unless the purchaser has the legal right to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute, or exhibit the product, in whole or in part, to the general public.

(2) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) For purposes of this section, "general public" means all persons and not limited or restricted to a particular class of persons, except that the general public includes:

(a) A class of persons that is defined as all persons residing or owning property within the boundaries of a state, political subdivision of a state, or a municipal corporation; and
(b) With respect to libraries, authorized library patrons.

Sec. 518. RCW 82.08.02088 and 2009 c 535 s 701 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to the sale of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) to a buyer that provides the seller with an exemption certificate claiming multiple points of use. An exemption certificate claiming multiple points of use must be in a form and contain such information as required by the department.

(2) A buyer is entitled to use an exemption certificate claiming multiple points of use only if the buyer is a business or other organization and the digital goods or digital automated services purchased, or the digital goods or digital automated services to be obtained by the digital code purchased, or the prewritten computer software or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) purchased will be concurrently available for use within and outside this state. A buyer is not entitled to use an exemption certificate claiming multiple points of use for digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) purchased for personal use.

(3) A buyer claiming an exemption under this section must report and pay the tax imposed in RCW 82.12.020 and any local use taxes imposed under the authority of chapter 82.14 RCW and RCW 81.104.170 directly to the department in accordance with RCW 82.12.02088 and 82.14.457.

(4) For purposes of this section, "concurrently available for use within and outside this state" means that employees or other agents of the buyer may use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) simultaneously from one or more locations within this state and one or more locations outside this state. A digital code is concurrently available for use

within and outside this state if employees or other agents of the buyer may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state.

Sec. 519. RCW 82.12.010 and 2015 c 169 s 5 are each amended to read as follows:

For the purposes of this chapter:

(1) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, has full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, also means any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons within this state by a consumer as defined in this subsection (1), the use of the property is deemed to be by such consumer.

(2) "Extended warranty" has the same meaning as in RCW 82.04.050(7).

(3) "Purchase price" means the same as sales price as defined in RCW 82.08.010.

(4)(a)(i) Except as provided in (a)(ii) of this subsection (4), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, digital good, digital code, or a sale of any digital automated service or service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((b)) (c) that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540.

(5) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW.

(6) "Use," "used," "using," or "put to use" have their ordinary meaning, and mean:

(a) With respect to tangible personal property, except for natural gas and manufactured gas, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the

taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(d) With respect to a digital good or digital code, the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good or digital code;

(e) With respect to a digital automated service, the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service;

(f) With respect to a service defined as a retail sale in RCW 82.04.050(6)((b)) (c), the first act within this state by which the taxpayer, as a consumer, accesses the prewritten computer software;

(g) With respect to a service defined as a retail sale in RCW 82.04.050(2)(g), the first act within this state after the service has been performed by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good upon which the service was performed; and

(h) With respect to natural gas or manufactured gas, the use of which is taxable under RCW 82.12.022, including gas that is also taxable under the authority of RCW 82.14.230, the first act within this state by which the taxpayer consumes the gas by burning the gas or storing the gas in the taxpayer's own facilities for later consumption by the taxpayer.

(7)(a) "Value of the article used" is the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used is determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used must be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used is determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five

consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used must be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used is determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used is determined by:

(i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used is determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax.

(8) "Value of the digital good or digital code used" means the purchase price for the digital good or digital code, the use of which is taxable under this chapter. If the digital good or digital code is acquired other than by purchase, the value of the digital good or digital code must be determined as nearly as possible according to the retail selling price at place of use of similar digital goods or digital codes of like quality and character under rules the department may prescribe.

(9) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used is determined as nearly as possible according to the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe.

(10) "Value of the service used" means the purchase price for the digital automated service or other service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used is determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe.

Sec. 520. RCW 82.12.020 and 2015 c 169 s 6 are each amended to read as follows:

(1) There is levied and collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property acquired by the user in any manner, including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((b)) (c), excluding services defined as a retail sale in RCW 82.04.050(6)((b)) (c) that are provided free of charge;

(d) Extended warranty; or

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(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2) (a) or (g) or (6)((b)) (c), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4), the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.

(5) For purposes of the tax imposed in this section, "person" includes anyone within the definition of "buyer," "purchaser," and "consumer" in RCW 82.08.010.

Sec. 521. RCW 82.12.02082 and 2010 c 111 s 501 are each amended to read as follows:

The provisions of this chapter do not apply to the use by a business or other organization of digital goods, digital codes, digital automated services, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) for the purpose of making the digital good or digital automated service, including a digital good or digital automated service acquired through the use of a digital code, or service defined as a retail sale in RCW 82.04.050(6)((b)) (c) available free of charge for the use or enjoyment of the general public. For purposes of this section, "general public" has the same meaning as in RCW 82.08.02082. The exemption provided in this section does not apply unless the user has the legal right to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute, or exhibit the product, in whole or in part, to the general public.

Sec. 522. RCW 82.12.02088 and 2009 c 535 s 702 are each amended to read as follows:

(1) A business or other organization subject to the tax imposed in RCW 82.12.020 on the use of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) that are concurrently available for use within and outside this state is entitled to apportion the amount of tax due this state based on users in this state compared to users everywhere. The department may authorize or require an alternative method of apportionment supported by the taxpayer's records that fairly reflects the proportion of in-state to out-of-state use by the taxpayer of the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c).

(2) No apportionment under this section is allowed unless the apportionment method is supported by the taxpayer's records kept in the ordinary course of business.

(3) For purposes of this section, the following definitions apply:

(a) "Concurrently available for use within and outside this state" means that employees or other agents of the taxpayer may use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) simultaneously at one or more locations within this state and one or more locations outside this state. A digital code is concurrently available for use within and outside this state if employees or other agents of the taxpayer may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state.

(b) "User" means an employee or agent of the taxpayer who is authorized by the taxpayer to use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)((b)) (c) in the performance of his or her duties as an employee or other agent of the taxpayer.

Sec. 523. RCW 82.12.0259 and 2009 c 535 s 613 are each amended to read as follows:

The provisions of this chapter do not apply in respect to the use of personal property or the use of digital automated services or services defined in RCW 82.04.050 (2)(a) or (6)((b)) (c) by corporations that have been incorporated under any act of the

congress of the United States and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, flood, and other national calamities and to devise and carry on measures for preventing the same.

Sec. 524. RCW 82.12.035 and 2015 c 169 s 8 are each amended to read as follows:

A credit is allowed against the taxes imposed by this chapter upon the use in this state of tangible personal property, extended warranty, digital good, digital code, digital automated service, or services defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((~~bb~~)) (c), in the amount that the present user thereof or his or her bailor or donor has paid a legally imposed retail sales or use tax with respect to such property, extended warranty, digital good, digital code, digital automated service, or service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((~~bb~~)) (c) to any other state, possession, territory, or commonwealth of the United States, any political subdivision thereof, the District of Columbia, and any foreign country or political subdivision thereof.

Sec. 525. RCW 82.12.040 and 2015 c 169 s 9 are each amended to read as follows:

(1) Every person who maintains in this state a place of business or a stock of goods, or engages in business activities within this state, must obtain from the department a certificate of registration, and must, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((~~bb~~)) (c), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. For the purposes of this chapter, the phrase "maintains in this state a place of business" includes the solicitation of sales and/or taking of orders by sales agents or traveling representatives. For the purposes of this chapter, "engages in business activity within this state" includes every activity which is sufficient under the Constitution of the United States for this state to require collection of tax under this chapter. The department must in rules specify activities which constitute engaging in business activity within this state, and must keep the rules current with future court interpretations of the Constitution of the United States.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((~~bb~~)) (c), of his or her principals for use in this state, must, at the time such sales are made, collect from the purchasers the tax imposed on the purchase price under this chapter, and for that purpose is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed to be held in trust by the retailer until paid to the department, and any retailer who appropriates or converts the tax collected to the retailer's own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed is guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to

pay the same to the department in the manner prescribed, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is nevertheless personally liable to the state for the amount of such tax, unless the seller has taken from the buyer a copy of a direct pay permit issued under RCW 82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter is guilty of a misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if:

(a) The person's activities in this state, whether conducted directly or through another person, are limited to:

(i) The storage, dissemination, or display of advertising;

(ii) The taking of orders; or

(iii) The processing of payments; and

(b) The activities are conducted electronically via a web site on a server or other computer equipment located in Washington that is not owned or operated by the person making sales into this state nor owned or operated by an affiliated person. "Affiliated persons" has the same meaning as provided in RCW 82.04.424.

(6) Subsection (5) of this section expires when: (a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (b) it is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(7) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (7) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

(8) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the state is prohibited under the Constitution or laws of the United States from requiring the person to collect the tax imposed by this chapter.

(9) Notwithstanding subsections (1) through (4) of this section, any licensed dealer facilitating a firearm sale or transfer between two unlicensed persons by conducting background checks under chapter 9.41 RCW is not obligated to collect the tax imposed by this chapter.

Sec. 526. RCW 82.12.860 and 2015 c 169 s 10 are each amended to read as follows:

(1) This chapter does not apply to state credit unions with respect to the use of any article of tangible personal property, digital good, digital code, digital automated service, service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((~~bb~~)) (c), or extended warranty, acquired from a federal credit union, foreign credit union, or out-of-state credit union as a result of a merger or conversion.

(2) For purposes of this section, the following definitions apply:

(a) "Federal credit union" means a credit union organized and operating under the laws of the United States.

(b) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction.

(c) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or United States territory or possession.

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(d) "State credit union" means a credit union organized and operating under the laws of this state.

Sec. 527. RCW 82.14.457 and 2009 c 535 s 703 are each amended to read as follows:

(1) A business or other organization that is entitled under RCW 82.12.02088 to apportion the amount of state use tax on the use of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(~~(b)~~) (c) is also entitled to apportion the amount of local use taxes imposed under the authority of this chapter and RCW 81.104.170 on the use of such products or services.

(2) To ensure that the tax base for state and local use taxes is identical, the measure of local use taxes apportioned under this section must be the same as the measure of state use tax apportioned under RCW 82.12.02088.

(3) This section does not affect the sourcing of local use taxes.
Sec. 528. RCW 82.04.4277 and 2016 sp.s. c 29 s 532 are each amended to read as follows:

(1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing mental health services or chemical dependency services under a government-funded program.

(2) A behavioral health organization may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) A person claiming a deduction under this section must file a complete annual report with the department under RCW 82.32.534.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chemical dependency" has the same meaning as provided in RCW 70.96A.020 through March 31, 2018, and the same meaning as provided in RCW 71.05.020 beginning April 1, 2018.

(b) "Health or social welfare organization" has the meaning provided in RCW 82.04.431.

(c) "Mental health services" and "behavioral health organization" have the meanings provided in RCW 71.24.025.

(5) This section expires January 1, 2020.
Sec. 529. RCW 84.12.270 and 2001 c 187 s 3 are each amended to read as follows:

The department of revenue (~~(shall)~~) must annually make an assessment of the operating property of all companies(~~(, and)~~). Between the fifteenth day of March and the first day of July of each year (~~(shall)~~) the department must prepare an initial assessment roll upon which (~~(it shall)~~) the department must enter and assess the true and fair value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. The department must finalize the assessment roll by the twentieth day of August of each year. For the purpose of determining the true and fair value of such property the department of revenue may inspect the property belonging to (~~(said))~~ the companies and may take into consideration any information or knowledge obtained by (~~(#))~~ the department from (~~(such))~~ an examination and inspection of such property, or of the books, records, and accounts of such companies, the statements filed as required by this chapter, the reports, statements, or returns of such companies filed in the office of any board, office, or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the true and fair valuation of any and all property of such companies, whether operating or nonoperating property, and whether situated

within or outside the state, and any other facts, evidence, or information that may be obtainable bearing upon the value of the operating property(~~(-PROVIDED, That)~~). However, in no event (~~(shall)~~) may any statement or report required from any company by this chapter be conclusive upon the department of revenue in determining the amount, character, and true and fair value of the operating property of such company.

Sec. 530. RCW 84.12.330 and 2001 c 187 s 6 are each amended to read as follows:

Upon the assessment roll (~~(shall)~~) must be placed after the name of each company a general description of the operating property of the company, which (~~(shall be)~~) is considered sufficient if described in the language of RCW 84.12.200(~~(+2))~~ (8), as applied to the company, following which (~~(shall)~~) must be entered the true and fair value of the operating property as determined by the department of revenue. No assessment (~~(shall)~~) may be invalidated by reason of a mistake in the name of the company assessed, or the omission of the name of the owner or by the entry as owner of a name other than that of the true owner. When the department of revenue (~~(shall have))~~ has prepared the assessment roll and entered thereon the true and fair value of the operating property of the company, as herein required, (~~(it shall)~~) the department must notify the company by mail of the valuation determined by it and entered upon the roll.

Sec. 531. RCW 84.16.040 and 2001 c 187 s 9 are each amended to read as follows:

The department of revenue (~~(shall)~~) must annually make an assessment of the operating property of each private car company(~~(-and)~~). Between the first day of May and the first day of July of each year (~~(shall)~~) the department must prepare an initial assessment roll upon which (~~(it shall)~~) the department must enter and assess the true and fair value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. The department must finalize the assessment roll by the twentieth day of August of each year. For the purpose of determining the true and fair value of such property the department of revenue may take into consideration any information or knowledge obtained by (~~(#))~~ the department from an examination and inspection of such property, or of the books, records, and accounts of such companies, the statements filed as required by this chapter, the reports, statements, or returns of such companies filed in the office of any board, office, or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the true and fair valuation of any and all property of such companies, whether operating property or nonoperating property, and whether situated within or without the state, and any other facts, evidences, or information that may be obtainable bearing upon the value of the operating property(~~(-PROVIDED, That)~~). However, in no event (~~(shall)~~) may any statement or report required from any company by this chapter be conclusive upon the department of revenue in determining the amount, character, and true and fair value of the operating property of such company.

Sec. 532. RCW 84.16.090 and 2001 c 187 s 11 are each amended to read as follows:

Upon the assessment roll (~~(shall)~~) must be placed after the name of each company a general description of the operating property of the company, which (~~(shall be)~~) is considered sufficient if described in the language of RCW 84.16.010(3) or otherwise, following which (~~(shall)~~) must be entered the true and fair value of the operating property as determined by the department of revenue. No assessment (~~(shall be))~~ is invalid by a mistake in the name of the company assessed, by omission of the name of the owner or by the entry of a name other than that of the true owner.

When the department of revenue (~~shall have~~) has prepared the initial assessment roll and entered thereon the true and fair value of the operating property of the company, as required, (~~it shall~~) the department must notify the company by mail of the valuation determined by it and entered upon the roll; and thereupon such valuation (~~shall~~) must become the true and fair value of the operating property of the company, subject to revision or correction by the department of revenue as hereinafter provided; and (~~shall~~) must be the valuation upon which, after equalization by the department of revenue as hereinafter provided, the taxes of such company (~~shall be~~) are based and computed.

Part VI

Estate tax return filing relief

Sec. 601. RCW 83.100.050 and 2008 c 181 s 504 are each amended to read as follows:

(1) A Washington return must be filed if ~~((a) A federal return is required to be filed; or (b) for decedents dying prior to January 1, 2006, the gross estate exceeds one million five hundred thousand dollars; or (c) for decedents dying on or after January 1, 2006, the gross estate exceeds two million dollars))~~ the gross estate equals or exceeds the applicable exclusion amount.

(2) If a Washington return is required as provided in subsection (1) of this section:

(a) A person required to file a federal return (~~shall~~) must file with the department on or before the date the federal return is required to be filed, including any extension of time for filing under subsection (4) or (6) of this section, a Washington return for the tax due under this chapter.

(b) If no federal return is required to be filed, a taxpayer shall file with the department on or before the date a federal return would have been required to be filed, including any extension of time for filing under subsection (5) or (6) of this section, a Washington return for the tax due under this chapter.

(3) A Washington return delivered to the department by United States mail (~~shall be~~) is considered to have been received by the department on the date of the United States postmark stamped on the cover in which the return is mailed, if the postmark date is within the time allowed for filing the Washington return, including extensions.

(4) In addition to the Washington return required to be filed in subsection (2) of this section, a person ~~((, if required to file a federal return, shall))~~ must file with the department on or before the date the federal return is ~~((required to be filed a copy of the federal return along with all supporting documentation))~~ or would have been required to be filed all supporting documentation for completed Washington return schedules, and, if a federal return has been filed, a copy of the federal return. If the person required to file the federal return has obtained an extension of time for filing the federal return, the person (~~shall~~) must file the Washington return within the same time period and in the same manner as provided for the federal return. A copy of the federal extension (~~shall~~) must be filed with the department on or before the date the Washington return is due, not including any extension of time for filing, or within thirty days of issuance, whichever is later.

(5) A person may obtain an extension of time for filing the Washington return as provided by rule of the department, if the person is required to file a Washington return under subsection (2) of this section, but is not required to file a federal return.

(6) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for filing a Washington return under this section as the department deems proper.

Part VII

Clarifying that licensing information may not be disclosed for commercial purposes

Sec. 701. RCW 19.02.115 and 2013 c 144 s 26 are each amended to read as follows:

(1) ~~((For purposes of this section))~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Disclose" means to make known to any person in any manner licensing information(~~s~~).

(b) "Licensing information" means any information created or obtained by the department in the administration of this chapter and chapters 19.80 and 59.30 RCW, which information relates to any person who: (i) Has applied for or has been issued a license or trade name; or (ii) has been issued an assessment or delinquency fee. Licensing information includes initial and renewal business license applications, and business licenses(~~s~~).

(c) "Person" has the same meaning as in RCW 82.04.030 and also includes the state and the state's departments and institutions(~~s and~~).

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency.

(2) Licensing information is confidential and privileged, and except as authorized by this section, neither the department nor any other person may disclose any licensing information. Nothing in this chapter requires any person possessing licensing information made confidential and privileged by this section to delete information from such information so as to permit its disclosure.

(3) This section does not prohibit the department of revenue, or any other person receiving licensing information from the department under this subsection, from:

(a) Disclosing licensing information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In which the person about whom such licensing information is sought and the department, another state agency, or a local government are adverse parties in the proceeding; or

(ii) Involving a dispute arising out of the department's administration of chapter 19.80 or 59.30 RCW, or this chapter if the licensing information relates to a party in the proceeding;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such licensing information regarding a license applicant or license holder to such license applicant or license holder or to such person or persons as that license applicant or license holder may designate in a request for, or consent to, such disclosure, or to any other person, at the license applicant's or license holder's request, to the extent necessary to comply with a request for information or assistance made by the license applicant or license holder to such other person. However, licensing information not received from the license applicant or holder must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the license applicant, license holder, or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies, which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the license applicant or license holder by the order of any court;

(c) Publishing statistics so classified as to prevent the identification of particular licensing information;

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(d) Disclosing licensing information for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions, or licensing;

(e) Permitting the department's records to be audited and examined by the proper state officer, his or her agents and employees;

(f) Disclosing any licensing information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax or license enforcement. A peace officer or county prosecuting attorney who receives the licensing information may disclose that licensing information only for use in the investigation and a related court proceeding, or in the court proceeding for which the licensing information originally was sought;

(g) Disclosing, in a manner that is not associated with other licensing information, the name of a license applicant or license holder, entity type, registered trade name, business address, mailing address, unified business identifier number, list of licenses issued to a person through the business licensing system established in this chapter and their issuance and expiration dates, and the dates of opening of a business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of persons for any commercial purpose;

(h) Disclosing licensing information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(i) Disclosing any licensing information when the disclosure is specifically authorized under any other section of the Revised Code of Washington;

(j) Disclosing licensing information to the proper officer of the licensing or tax department of any city, town, or county of this state, for official purposes. If the licensing information does not relate to a license issued by the city, town, or county requesting the licensing information, disclosure may be made only if the laws of the requesting city, town, or county grants substantially similar privileges to the proper officers of this state; or

(k) Disclosing licensing information to the federal government for official purposes.

(4) Notwithstanding anything to the contrary in this section, a state agency or local government agency may disclose licensing information relating to a license issued on its behalf by the department pursuant to this chapter if the disclosure is authorized by another statute, local law, or administrative rule.

(5) The department, any other state agency, or local government may refuse to disclose licensing information that is otherwise disclosable under subsection (3) of this section if such disclosure would violate federal law or any information sharing agreement between the state or local government and federal government.

(6) Any person acquiring knowledge of any licensing information in the course of his or her employment with the department and any person acquiring knowledge of any licensing information as provided under subsection (3)(d), (e), (f), (j), or (k) of this section, who discloses any such licensing information to another person not entitled to knowledge of such licensing information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter.

Part VIII

Background investigations

Sec. 801. RCW 82.01.060 and 2011 c 298 s 36 are each amended to read as follows:

The director of revenue, hereinafter in chapter 26, Laws of 1967 ex. sess. referred to as the director, through the department of revenue, hereinafter in chapter 26, Laws of 1967 ex. sess. referred to as the department, must:

(1) Assess and collect all taxes and administer all programs relating to taxes which are the responsibility of the tax commission at the time chapter 26, Laws of 1967 ex. sess. takes effect or which the legislature may hereafter make the responsibility of the director or of the department;

(2) Make, adopt and publish such rules as he or she may deem necessary or desirable to carry out the powers and duties imposed upon him or her or the department by the legislature. However, the director may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule;

(3) Rules adopted by the tax commission before July 23, 1995, remain in force until such time as they may be revised or rescinded by the director;

(4) Provide by general regulations for an adequate system of departmental review of the actions of the department or of its officers and employees in the assessment or collection of taxes;

(5) Maintain a tax research section with sufficient technical, clerical and other employees to conduct constant observation and investigation of the effectiveness and adequacy of the revenue laws of this state and of the sister states in order to assist the governor, the legislature and the director in estimation of revenue, analysis of tax measures, and determination of the administrative feasibility of proposed tax legislation and allied problems;

(6) Recommend to the governor such amendments, changes in, and modifications of the revenue laws as seem proper and requisite to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of taxes in the most economical manner;

(7) Provide the opportunity for any person feeling aggrieved by any action taken against the person by the department in the administration of chapters 19.02, 19.80, and 59.30 RCW to request a review of the department's action. Such review may be conducted as a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494; and

(8)(a) Establish background investigation policies applicable to those current and prospective department employees and contractors that are or may be authorized by the department to access federal tax information. Such policies must require a criminal history record check through the Washington state patrol criminal identification system and through the federal bureau of investigation, at the expense of the department. The record check must include a fingerprint check using a complete Washington state criminal identification fingerprint card, which must be forwarded by the Washington state patrol to the federal bureau of investigation. The department's background investigation policies must also satisfy any specific background investigation standards established by the internal revenue service.

(b) Information received by the department pursuant to this subsection may be used only for the purposes of making, supporting, or defending decisions regarding the appointment, hiring, or retention of persons, or for complying with any requirements from the internal revenue service. Further dissemination or use of the information is prohibited, notwithstanding any other provision of law.

Part IX**Revising the date by which the department of revenue is required to provide estimates of the amount of public forestland that is available for timber harvesting**

Sec. 901. RCW 84.33.089 and 2004 c 177 s 6 are each amended to read as follows:

(1) The department ~~((shall))~~ **must** estimate the number of acres of public forestland that are available for timber harvesting. The department ~~((shall))~~ **must** provide the estimates for each county and for each taxing district within each county by ~~((August 30th))~~ **October 1st** of each year except that the department may authorize a county, at the county's option, to make its own estimates for public forestland in that county. In estimating the number of acres, the department ~~((shall))~~ **must** use the best available information to include public land comparable to private land that qualifies as forestland for assessment purposes and exclude other public lands. The department is not required to update the estimates unless improved information becomes available. The department of natural resources ~~((shall))~~ **must** assist the department with these determinations by providing any data and information in the possession of the department of natural resources on public forestlands, broken out by county and legal description, including a detailed map of each county showing the location of the described lands. The data and information ~~((shall))~~ **must** be provided to the department by July 15th of each year. In addition, the department may contract with other parties to provide data or assistance necessary to implement this section.

(2) To accommodate the phase-in of the county forest excise tax on the harvest of timber from public lands as provided in RCW 84.33.051, the department ~~((shall))~~ **must** adjust its actual estimates of the number of acres of public forestland that are available for timber harvesting. The department ~~((shall))~~ **must** reduce its estimates for the following years by the following amounts:

- (a) For calendar year 2005, 70 percent;
- (b) For calendar year 2006, 62.5 percent;
- (c) For calendar year 2007, 55 percent;
- (d) For calendar year 2008, 47.5 percent;
- (e) For calendar year 2009, 40 percent;
- (f) For calendar year 2010, 32.5 percent;
- (g) For calendar year 2011, 22.5 percent;
- (h) For calendar year 2012, 15 percent;
- (i) For calendar year 2013, 7.5 percent; and
- (j) For calendar year 2014 and thereafter, the department ~~((shall))~~ **may** not reduce its estimates of the number of acres of public forestland that are available for timber harvesting.

Part X**Electronic communication of confidential property tax information**

NEW SECTION. Sec. 1001. A new section is added to chapter 84.08 RCW to read as follows:

(1) The department may provide electronically any assessment, notice, or other information that is subject to the confidentiality provisions of RCW 84.08.210 or 84.40.340, to any person authorized to receive the information.

(2) The department must use methods reasonably designed to protect information provided electronically as authorized in subsection (1) of this section from unauthorized disclosure. However, the provisions of this subsection (2) may be waived by a taxpayer. The waiver must be in writing and may be provided to the department electronically. A waiver continues until revoked in writing by the taxpayer. Such revocation may be provided to the department electronically in a manner provided or approved by the department.

Part XI**Miscellaneous**

NEW SECTION. Sec. 1101. RCW 82.32.805 and 82.32.808 do not apply to any provisions of this act.

NEW SECTION. Sec. 1102. (1) Except as otherwise provided in this section, part I of this act takes effect January 1, 2018.

(2) Section 102 of this act takes effect April 1, 2018."

Correct the title.

NONA SNELL,, Deputy Chief Clerk

MOTION

Senator Fain moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5358.

Senator Fain spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fain that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5358.

The motion by Senator Fain carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5358 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5358, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5358, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Hasegawa

SUBSTITUTE SENATE BILL NO. 5358, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5346 with the following amendment(s): 5346-S AMH SEIT H2469.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1103. A new section is added to chapter 44.04 RCW to read as follows:

The secretary of the senate and the chief clerk of the house of representatives may administer and conduct a legislative page scholarship program to provide resources for Washington students who participate in the page programs of the senate or house of representatives. The scholarship program should provide assistance to students, based on financial need, who qualify for a

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page program. The program is called the Gina Grant Bull memorial legislative page scholarship program.

NEW SECTION. Sec. 1104. A new section is added to chapter 44.04 RCW to read as follows:

(1) The secretary of the senate and the chief clerk of the house of representatives may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. Any legislative member or legislative employee may solicit the same types of contributions for the secretary of the senate and the chief clerk of the house of representatives.

(2) Moneys received under this section may be used only for establishing and operating the legislative page scholarship program authorized in section 1 of this act.

(3) Moneys received under this section must be deposited in the Gina Grant Bull memorial legislative page scholarship account established in section 3 of this act.

(4) The secretary of the senate and the chief clerk of the house of representatives must adopt joint rules to govern and protect the receipt and expenditure of the proceeds.

NEW SECTION. Sec. 1105. A new section is added to chapter 44.04 RCW to read as follows:

The Gina Grant Bull memorial legislative page scholarship account is created in the custody of the state treasurer. All moneys received under section 1 of this act must be deposited in the account. Expenditures from the account may be made only for the purposes of the legislative page scholarship program in section 1 of this act. Only the secretary of the senate or the chief clerk of the house of representatives or their designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

NEW SECTION. Sec. 1106. A new section is added to chapter 42.52 RCW to read as follows:

This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting contributions to the Gina Grant Bull memorial legislative page scholarship account created in section 3 of this act. Furthermore, this chapter does not prohibit any legislative member or legislative employee from soliciting gifts for the Gina Grant Bull memorial legislative page scholarship account.

Sec. 1107. RCW 43.79A.040 and 2016 c 203 s 2, 2016 c 173 s 10, 2016 c 69 s 21, and 2016 c 39 s 7 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

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

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

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

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

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

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

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Walsh moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5346.

Senator Walsh spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Walsh that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5346.

The motion by Senator Walsh carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5346 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5346, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5346, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE SENATE BILL NO. 5346, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 7, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5359 with the following amendment(s): 5359 AMH CDHT H2421.2

On page 3, line 2, after "351, Laws of 2011." insert "By January 1, 2018, the department of labor and industries and the professional educator standards board must each submit a report to the legislature, including an assessment on how its licensing, certification, and apprenticeship programs apply training and experience acquired by military members and their spouses outside of Washington, and recommendations about whether such programs should be included in the reporting schedule within this subsection."

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Senate Bill No. 5359.

Senator Conway spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Senate Bill No. 5359.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5359 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5359, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5359, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5359, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 1958,

ENGROSSED HOUSE BILL NO. 2201,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5474 with the following amendment(s): 5474-S2 AMH AGNR H2451.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1108. The legislature finds that elk hoof disease poses a significant threat to the state, including elk populations and livestock. While the legislature recognizes the efforts of the department of fish and wildlife thus far, more aggressive steps are necessary to achieve a better understanding of the hoof disease epidemic facing the state's elk populations and to ensure proactive management and treatment actions are pursued.

Sec. 1109. RCW 77.12.047 and 2001 c 253 s 14 are each amended to read as follows:

(1) The commission may adopt, amend, or repeal rules as follows:
(a) Specifying the times when the taking of wildlife, fish, or shellfish is lawful or unlawful.

(b) Specifying the areas and waters in which the taking and possession of wildlife, fish, or shellfish is lawful or unlawful.

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(c) Specifying and defining the gear, appliances, or other equipment and methods that may be used to take wildlife, fish, or shellfish, and specifying the times, places, and manner in which the equipment may be used or possessed.

(d) Regulating the importation, transportation, possession, disposal, landing, and sale of wildlife, fish, shellfish, or seaweed within the state, whether acquired within or without the state. However, the rules of the department must prohibit any person, including department staff, from translocating a live elk from an area with elk affected by hoof disease to any other location except:

(i) Consistent with a process developed by the department with input from the affected federally recognized tribes for translocation for monitoring or hoof disease management purposes; or

(ii) Within an elk herd management plan area affected by hoof disease.

(e) Regulating the prevention and suppression of diseases and pests affecting wildlife, fish, or shellfish.

(f) Regulating the size, sex, species, and quantities of wildlife, fish, or shellfish that may be taken, possessed, sold, or disposed of.

(g) Specifying the statistical and biological reports required from fishers, dealers, boathouses, or processors of wildlife, fish, or shellfish.

(h) Classifying species of marine and freshwater life as food fish or shellfish.

(i) Classifying the species of wildlife, fish, and shellfish that may be used for purposes other than human consumption.

(j) Regulating the taking, sale, possession, and distribution of wildlife, fish, shellfish, or deleterious exotic wildlife.

(k) Establishing game reserves and closed areas where hunting for wild animals or wild birds may be prohibited.

(l) Regulating the harvesting of fish, shellfish, and wildlife in the federal exclusive economic zone by vessels or individuals registered or licensed under the laws of this state.

(m) Authorizing issuance of permits to release, plant, or place fish or shellfish in state waters.

(n) Governing the possession of fish, shellfish, or wildlife so that the size, species, or sex can be determined visually in the field or while being transported.

(o) Other rules necessary to carry out this title and the purposes and duties of the department.

(2)(a) Subsections (1)(a), (b), (c), (d), and (f) of this section do not apply to private tideland owners and lessees and the immediate family members of the owners or lessees of state tidelands, when they take or possess oysters, clams, cockles, borers, or mussels, excluding razor clams, produced on their own private tidelands or their leased state tidelands for personal use.

(b) "Immediate family member" for the purposes of this section means a spouse, brother, sister, grandparent, parent, child, or grandchild.

(3) Except for subsection (1)(g) of this section, this section does not apply to private sector cultured aquatic products as defined in RCW 15.85.020. Subsection (1)(g) of this section does apply to such products.

NEW SECTION. Sec. 1110. A new section is added to chapter 77.12 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the legislature designates Washington State University college of veterinary medicine as the state lead in developing a program to monitor and assess causes of and

potential solutions for elk hoof disease. The college must establish an elk monitoring system in southwest Washington in order to carry out this mission. In conducting this work, the college must work collaboratively with entities including the department, the state veterinarian, and any tribes with interest in participating. The college must provide regular updates, at minimum on an annual basis, to the appropriate committees of the legislature and the commission on its findings, program needs, and any recommendations.

NEW SECTION. Sec. 1111. The department of fish and wildlife must immediately adopt or amend any rule as necessary to implement, and ensure rules are consistent with, this act."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Pearson moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5474.

Senator Pearson spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pearson that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5474.

The motion by Senator Pearson carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5474 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5474, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5474, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SECOND SUBSTITUTE SENATE BILL NO. 5474, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:32 p.m., on motion of Senator Fain, the Senate adjourned until 10:00 o'clock a.m. Friday, April 14, 2017.

CYRUS HABIB, President of the Senate

HUNTER G. GOODMAN, Secretary of the Senate