2017 Legislative Report, First Regular Session, and First, Second, and Third Special Sessions

SHB 1055, Chapter 163, Laws of 2017, Providing Low Cost Legal Services to Members of the Military, Effective July 23, 2017.

SHB 1055 creates an Office of Military and Veteran Legal Assistance within the Office of the Attorney General. The Office promotes and facilitates civil legal assistance programs, pro bono services, and self-help services for military service members, veterans, and their families.

Under the new law the Attorney General may not: (1) directly provide legal assistance, advice, or representation in any context, unless otherwise authorized by law; or (2) provide legal assistance, pro bono services, or self-help services to a service member, veteran, or family member being criminally prosecuted.

The duties of the Office of Military and Veteran Legal Assistance include recruiting and training volunteer attorneys, and creating and maintaining a registry of service programs and volunteer attorneys willing to perform pro bono services for service members, veterans, and their family members. The Office will also assess and assign requests for pro bono services to volunteer attorneys and service programs that register with the Office.

The newly created Office must establish a committee to provide advice and assistance regarding program design, operation, volunteer recruitment and support strategies, service delivery objectives and priorities, and funding. The Attorney General may apply for and receive grants, gifts, donations, bequests, or other contributions to help support, and to be used exclusively for, the operations of the Office.

2SHB 1120, Chapter 53, Laws of 2017, Concerning the Regulatory Fairness Act, Effective July 23, 2017.

<u>The Regulatory Fairness Act (RFA) and Small Business Economic Impact Statements (SBEIS).</u>

An agency that demonstrates a proposed rule does not impact small businesses is exempt from completing a SBEIS under the RFA. An agency must consider all of the cost reduction options listed in the RFA when its proposed rule impacts only small businesses. An agency whose proposed rule imposes more than minor costs on small businesses must mitigate these costs when the agency does not have sufficient data to determine the extent of disproportionate impact on small businesses.

<u>Office of Regulatory Innovation and Assistance (ORIA)</u>

In 2002 the Legislature created the Office of Regulatory Innovation and Assistance (ORIA) which was formerly the Office of Regulatory Assistance and Office of Permit Assistance. The ORIA assists citizens and small businesses with permitting, licensing,

and regulatory issues, including developing improvements to the regulatory system. The ORIA's duties include providing clear information and assistance to citizens, businesses, and local governments on state regulations, permit requirements, and agency rule-making processes.

Under the new law the ORIA must act as the central entity to collaborate with and provide support to agencies in meeting the requirements of the RFA. The ORIA's support must include, but is not limited to, providing online guidance and tools by December 31, 2017; providing access to available data for agencies to complete cost calculations; and facilitating sharing of information among agencies and between agencies and business associations.

The ORIA must consult with the Office of the Attorney General (AGO) in providing online guidance and tools. Online guidance and tools may include the creation of templates and resources to assist agency employees with consistent compliance with the RFA.

The State Auditor's Office (SAO) is required to conduct a performance review of agency compliance of the RFA, no earlier than June 30, 2020. The SAO must report its findings and recommendations by June 30, 2021. The SAO must complete subsequent compliance reviews of the agencies, depending on the degree to which agencies are found to be in compliance with the RFA. The SAO must report findings and any recommendations from its reviews to the Legislature.

ESHB 1153, Chapter 266, Laws of 2017, Concerning Crimes against Vulnerable Adults, Effective July 23, 2017.

ESHB 1153 pertains to crimes impacting vulnerable adults. The new law lowers the requisite mental state for the crimes of Criminal Mistreatment in the first and second degree from recklessness to criminal negligence. It creates the crimes of Theft from a Vulnerable Adult in the first degree and second degree, applicable when a person commits theft of property or services from a person the defendant knows or should know is a vulnerable adult, and categorizes Criminal Mistreatment (first and second degree) and Theft from a Vulnerable Adult as crimes against persons.

Counties are encouraged to develop written protocols for handling criminal cases involving vulnerable adults, and outlines requirements for vulnerable adult advocacy teams. These protocols address coordination of investigations among various criminal justice system participants and representatives of other interested groups, including: prosecutors, law enforcement, adult protective services, advocacy programs, professional guardians, medical examiners and coroners, financial analysts and forensic accountants, social workers, medical personnel, applicable ombuds offices, and other local agencies involved in the criminal investigation of vulnerable adult mistreatment;

A "vulnerable adult" is a person 18 years or older who is functionally, mentally, or physically unable to care for himself or herself; or is suffering from a cognitive

impairment other than voluntary intoxication. The statute of limitations for the crime of Theft from a Vulnerable Adult runs for six years from the commission or discovery of the offense.

HB 1352, Chapter 243, Laws of 2017, An Act Relating to Licensing and Regulatory Requirements of Small Business Owners, Effective July 23, 2017.

The new law directs the Office of the Attorney General (AGO) to review the Administrative Procedures Act (APA), related administrative rules, statutes, and case law to identify rights and protections afforded to small business owners selected for agency enforcement actions, such as audits, inspections, site visits, and record reviews.

In addition, the Departments of Agriculture, Ecology, Employment Security, Labor and Industries, and Revenue, and the State Fire Marshall must review respective governing statutes, administrative rules, policy statements, guidance, and directives identified as sources for rights and protections. These agencies must also provide the AGO with specified materials and copies of statements of rights provided to small businesses for the AGO's review no later than August 31, 2017. The AG must compile findings in a report to relevant legislative committees by November 30, 2017. The report must include information identified by agencies, as well as recommendations by the AGO to identify, clarify, and harmonize rights afforded to small business owners and methods to improve notice of rights. The AGO must provide agencies with copies of recommendations by October 30, 2017. Agencies may respond by providing written comments by November 13, 2017.

2SHB 1402, Chapter 268, Laws of 2017, An Act Relating to the Rights and Obligations Associated with Incapacitated Persons and Other Vulnerable Adults, Effective July 23, 2017.

The new law sets forth the associational rights of incapacitated persons and the related duties of guardians. Incapacitated persons retain the right to associate with persons of their choosing, including, but not limited to, the right to freely communicate and interact with other persons, whether through in-person visits, telephone calls, electronic communications, personal mail, or other means.

The bill changes the duties of a guardian with respect to an incapacitated person's associational rights. A guardian of an incapacitated person who is unable to express consent or make a decision regarding association with another person must: (1) personally inform the incapacitated person of the decision under consideration using plain language; (2) maximize the incapacitated person's participation in the decision-making process; and (3) give substantial weight to the incapacitated person's expressed and historical preferences. A guardian may not restrict an incapacitated person's associational rights unless: (1) the restriction is specifically authorized by the guardianship court in the court order establishing or modifying the guardianship; (2) the restriction is pursuant to a protective order; or (3) the guardian has good cause to believe that there is an immediate need for the restriction in order to protect the

incapacitated person from abuse, neglect, abandonment, or financial exploitation, and within 14 days of imposing the restriction, the guardian files a petition for a vulnerable adult protection order (VAPO).

Guardians are also given additional duties. Guardians must include reports from mental health professionals on the status of the incapacitated person, if any exist, along with the required annual reporting. Guardians must inform any person entitled to special notice of proceedings, and any other person designated by the incapacitated person, as soon as possible, but in no case more than five business days after the incapacitated person: (1) makes a change in residence that is likely to last more than 14 calendar days; (2) is admitted to a medical facility for acute care that requires inpatient treatment; (3) has been treated in an emergency room setting or kept for hospital observation for more than 24 hours; or (4) dies, in which case the notification must be made in person, by telephone, or by certified mail.

The Office of Public Guardianship is required to work in partnership with the Office of the State Long-Term Care Ombuds to develop and offer training targeted to the legal community and persons working in long-term care facilities regarding the different types of decision making authority that guardians, persons with powers of attorney, and persons with surrogate health care decision-making authority have, including their various roles, duties, and responsibilities.

ESHB 1493, Chapter 299, Laws of 2017, An Act Relating to Biometric Identifiers, Effective July 23, 2017.

A person may not enroll a biometric identifier in a database for a commercial purpose, without providing notice, obtaining consent, or providing a mechanism to prevent subsequent use. Financial institutions or affiliates of financial institutions subject to Title V of Gramm-Leach-Bliley are not subject to the new biometric identifier laws.

A biometric identifier enrolled or obtained for a commercial purpose may not be used or disclosed in a way inconsistent with the original terms under which it was provided, unless new consent is obtained. The sale, lease, or disclosure of a biometric identifier for a commercial purpose, without the individual's consent, is prohibited unless it is consistent with the database enrollment, protection, and retention requirements, necessary in providing a product or service requested by the individual, necessary in completing a financial transaction that the individual requested or authorized, expressly required or authorized under a federal or state statute, or made to prepare for litigation or for the purpose of judicial process.

A person in possession of biometric identifiers enrolled for a commercial purpose must guard against unauthorized access and adhere to retention limitations. The limitations on disclosure and retention do not apply if the biometric identifiers have been unenrolled. Violations may be enforced by the Attorney General under the Consumer Protection Act. "Biometric identifier" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas

or irises, or other unique biological patterns or characteristics that are used to identify a specific individual.

SHB 1717, Chapter 306, Laws of 2017, Concerning State Agency Collection, Use, and Retention of Biometric Identifiers, Effective July 23, 2017.

An agency is prohibited from obtaining a biometric identifier without first providing notice that clearly specifies the purpose and use of the identifier; and obtaining consent specific to the terms of the notice. An agency is prohibited from selling a biometric identifier.

An agency only may use a biometric identifier consistent with the terms of the notice and consent, and only may share the identifier under the following circumstances: to execute the purposes collection, consistent with the notice and consent; or if sharing is specified in the original consent.

An agency that obtains biometric identifiers must establish security policies that ensure the integrity and confidentiality of the identifiers; address the identifiers in privacy policies; tailor retention schedules to the purpose of collecting the identifiers; only retain the identifiers necessary to fulfill the original purpose and use; otherwise minimize the review and retention of the identifiers; and design a biometric policy to minimize the collection of biometric identifiers.

Biometric identifiers may not be disclosed under the Public Records Act.

See HB 2213 (below) for amendments made during the 2017 2nd Special Session to SHB 1717.

HB 2213, Chapter 1, Laws of 2017 2nd Special Session, An Act Relating to State Agency Collection, Use, and Retention of Biometric Identifiers, Effective July 23, 2017.

The new bill made changes to the recently enacted provisions (SHB 1717, Chapter 306, Laws of 2017) regulating state agency collection, use, and retention of biometric identifiers.

DNA is also added to the definition of "biometric identifier."

General authority law enforcement agencies are added as agencies subject to the restrictions on use, sharing, review, and retention of biometric identifiers, but may obtain a biometric identifier without notice and consent.

When acting under legal authorization, an agency may obtain a biometric identifier without notice and consent and restrictions on use, sharing, and retention of biometric identifiers do not apply.

The following agencies may obtain fingerprints or DNA without notice and consent, and seek a waiver from the requirement where there is need to obtain other types of biometric identifiers: limited authority law enforcement agencies; agencies with authorization for involuntary confinement; and the Attorney General's Office when engaging in specified functions.

SHB 1521, Chapter 167, Laws of 2017, Removing the Requirement that an Employee must Work at Least Six Months before Taking Vacation Leave, Effective July 1, 2017.

Currently, after six months of continuous employment, state employees are entitled to take not less than one working day of paid vacation leave each month. They are also entitled to not less than one additional working day of paid vacation leave each year for completing the first two, three, and five continuous years of employment.

The bill states that six months of continuous employment is not required for state employees to be entitled to take vacation leave. However, six months of continuous employment is required for state employees whose employment is terminated to be paid for accrued leave. The new law measures vacation leave in hours rather than working days.

HB 1593, Chapter 113, Laws of 2017, Simplifying Small Securities Offerings, Effective July 23, 2017.

The Securities Act of Washington (Act), as well as the federal law, requires registration of securities offerings and certain persons and businesses engaged in securities transactions. The Act also creates penalties for false or misleading filings. Certain securities offerings, transactions, and persons are exempt from registration. The Department of Financial Institutions (DFI) is responsible for the regulation of the purchase and sale of securities in Washington. Additionally, the DFI manages securities registration, investigation, and enforcement of violations of the Act. The DFI also reviews and approves exemptions from registration under the Washington law. The new law includes a small securities registration exemption (called crowdfunding) if certain qualifications are met.

The new law allows crowdfunding exemptions under any applicable exemption from registration under the securities laws. Small securities offerings may include any type of equity or convertible debt security. The issuer's company may be organized in any state (as opposed to only Washington State) and investors are not required to be Washington residents. Public quarterly reports are no longer required, and issuers are now required to send shareholders an annual report. The issuer may post the report on its website, but no longer is required to post this information. The explicit reference to portals is removed from the Act. In addition, the new law does not include accredited investors (as defined by federal law) in the annual sales limit when using the crowdfunding exemption.

ESHB 1594, Chapter 303, Laws of 2017, Improving Public Records Administration, Effective July 23, 2017.

ESHB 1594 states that records held by agency volunteers are not considered public records for purposes of the Public Records Act if the volunteer does not serve in an administrative capacity, does not hold an appointed position to an agency board, commission or internship, and does not have any supervisory function for the agency.

In addition to publishing model rules, the Office of the Attorney General must establish a consultation program to assist local governments with best practices for managing records requests, updating technology, and mitigating costs and liability. The Chief Information Officer, State Archivist, and other relevant agencies may provide consultation in developing and managing the program. The State Archives also must offer consultation and training services for local agencies on improving record retention practices. The Attorney General's consultation program and the State Archives' records retention training services expire in 2020.

The State Archives must establish a competitive grant program to improve local agency information technology systems for public records management. Any local agency may apply for grants, awarded annually, with preference given to small agencies with the need and ability to improve information technology systems. The State Archives may consult with the Chief Information Officer to develop criteria for making grant awards. Grant awards may cover software and hardware, equipment, management and training, indexing for records and digital data, and other resources. Grants are provided as single investments, and not as an ongoing source for operation and management expenses, and may not be used to supplant local funding. The State Archives may spend up to six percent of the grant program funding on administrative costs. The competitive grant program expires in 2020.

An additional $1 surcharge is assessed on documents recorded with the county auditor and deposited into the Local Archives Account. The additional surcharge revenue must be used exclusively for the State Archives' local agency competitive grant program, the Attorney General's consultation program, and the State Archives' records retention training services. No more than 50 percent of the revenue may be used for the competitive grant program and the records retention training services, combined.

The Joint Legislative Audit and Review Committee (JLARC) must review the local agency competitive grant program, the attorney general's consultation program, and the state archivist's training services. By December 1, 2019, the JLARC must report to the legislature on its findings from the review, including recommendations on whether those programs should continue or be allowed to expire. All agencies must maintain a log of public records requests submitted and processed, including the identity of the requestor if provided, the date the request was received and completed, a description of the records produced, redacted or withheld, in response to the request. Any agency with at least $100,000 in annual staff and legal costs associated with fulfilling public records requests must report to the JLARC by July 1 on certain metrics measured over the

preceding year. The JLARC must develop a reporting method and standardized metrics for the reporting requirements, in consultation with agencies.

The State Archives is authorized to administer a feasibility study on implementing a statewide open records portal that would administer public records requests through a single access point Internet website. The study must be conducted by a consultant hired by the State Archives. The consultant must prepare a report that includes findings and recommendations. The report is due to the Legislature by September 1, 2018. The State Archives must convene a workgroup by September 1, 2017, to develop the scope and direction of the study. The work group must have seven members, including four legislators and three community representatives selected by the Legislature majority and minority leadership.

HB 1595, Chapter 304, Laws of 2017, Concerning Costs Associated with Responding to Public Records Requests, Effective July 23, 2017.

The new law authorizes agencies to charge for providing copies of electronically produced records. The charge may include the actual costs for the electronic production or file transfer of the record, the use of a cloud-based storage and processing service, and the cost of transmitting the records in an electronic format.

If determining its own actual costs would be unduly burdensome, the agency may charge up to the following amounts for electronic copies: 10 cents per page scanned into an electronic format; 5 cents for every 4 electronic attachments uploaded to an electronic delivery system; and 10 cents per gigabyte transmitting records electronically. An agency may charge a flat fee of $2 as an alternative to the authorized default fees, if the agency reasonably estimates that the copying costs are more than $2.

In addition, the law authorizes an agency to assess a customized service charge for records requests that require the preparation of data compilations or customized electronic access services that are not used by the agency for other purposes. The fee is in addition to the authorized copying costs, and may include reimbursement for the actual costs of providing the records. An agency may not assess a customized service charge unless the agency notifies the requester, explains the reason for the charge, and provides a cost estimate. The requester may amend his or her request to avoid or reduce the costs.

A requester may seek judicial review of the reasonableness of an agency's estimate for copying charges. Agencies may require a deposit of up to 10 percent of the estimated customized service charge costs. Also, agencies may waive any fee for a request if the agency determines the fee is unwarranted. An agency may enter into a contract or other agreement with a requester who provides an alternative fee arrangement to the authorized charges or in response to a voluminous or frequently occurring request.

A request for all or substantially all records of an agency not relating to a particular topic is not a valid request for identifiable records under the Public Records Act. An agency

may deny multiple automatically generated (bot) requests that come from the same source within a 24-hour period, if the requests cause excessive interference with the other essential functions of the agency.

E2SHB 1802, Chapter 173, Laws of 2017, An Act Relating to Increasing the Access of Veterans, Military Service Members, and Military Spouses to Shared Leave in State Employment, Effective July 23, 2017.

The law allows agencies to permit an employee to receive shared leave if the employee is a current member of the uniformed services or a veteran, and is attending medical appointments or treatments for a service-related injury; or spouse of a current uniformed service member or veteran, who is attending medical appointments or treatments for a service-connected injury or disability and requires assistance while attending an appointment or treatment.

Agency heads must allow employees who are veterans and their spouses to access shared leave from the Veterans' In-State Service Shared Leave Pool (VISSLP) upon employment.

The new law creates the Veterans' In-State Service Shared Leave Pool (VISSLP). The VISSLP is administered by the Washington Department of Veterans Affairs (WDVA) and allows state employees to donate leave to be used as shared leave for state veteran employees or their spouses caring for them. All employees who donate to the VISSLP must specify their intent to donate to the VISSLP.

The Office of Financial Management must consult with the WDVA in its adoption of rules and policies governing the donation and use of shared leave from the VISSLP.

SSB 5012, Chapter 29, Laws of 2017, Concerning the Distribution of a Washington Trust's Assets to Another Trust, Effective July 23, 2017.

The legislation defines decanting power to mean when the trustee can distribute income and principal of a first trust to a second trust, or trusts, and modify the terms of the first trust. The extent of the decanting authority in the new law depends upon the extent of discretion granted to the trustee to distribute principal. A trustee with limited discretion is constrained by an ascertainable or reasonably definite standard. The interests of each beneficiary in the second trust must be substantially similar to such beneficiary’s interests in the first trust.

The law authorizes decanting powers which may be exercised if it is consistent with the trustee's fiduciary duties. The trustee must give written notice to each qualified beneficiary of intent to decant the first trust at least sixty days prior to decanting. A qualified beneficiary of the trust, or another person with a defined interest in the trust, may petition the court over the exercise of decanting power.

There is a requirement that all rights, privileges, immunities, powers, and purposes of the first trust remain vested in the second trust. Debts, liabilities, and legal actions enforceable against the first trust continue to the same extent against the second trust. Decanting powers are limited if the first trust instrument expressly limits decanting powers. The restriction must be included in the second trust. Decanting powers may not increase the compensation of the trustee beyond a specified compensation, or above compensation permitted by law, unless all beneficiaries consent or if it is approved by a court.

Charitable trust is defined in the new law. A trustee is required to give written notice to the state Attorney General prior to exercising decanting powers where a trust includes a charitable provision.

SSB 5022, Chapter 154, Laws of 2017, Providing Information to Students Regarding Education Loans, Effective July 23, 2017.

The act is known as the Washington Student Loan Transparency Act. Under the new law, post-secondary institutions must provide student borrowers, who have applied for financial aid, notification about their loans from the institution every time the institution certifies a new financial package to the student that includes loans. The notification must include an estimate on the total amount of education loans taken out by the student; potential total payoff amount of the education loans incurred, or a range of the total payoff amount, including principal and interest; monthly repayment amounts, for the amount of education loans the student has taken out; and percentage of the aggregate federal direct loan borrowing limit applicable to the student program of study the student has reached.

The estimates and/or ranges provided must be noted to be general in nature and must provide a statement that a variety of repayment plans are available for student loans that may limit the monthly repayment amount based on income. The notification must also include information on how to access resources for student loan borrowers from federal and state agencies.

Post-secondary Institutions must provide notifications by e-mail. In addition, notification may be provided in writing, electronic format, or in person. An institution does not incur liability, including actions by the Attorney General, for any good faith representations made by providing estimates on future debts. The notifications provided by institutions must begin July 1, 2018, and must be provided every time a new financial aid package that includes a new or revised student education loan is offered to a student.

SSB 5031, Chapter 30, Laws of 2017, Addressing Licensing and Enforcement Provisions Applicable to Money Transmitters and Currency Exchanges under the Uniform Money Services Act, Effective July 23, 2017.

The new law makes several changes to the law regarding the regulation of money transmitters and currency exchangers. The definition of money transmission includes

receiving virtual currency. A money transmitter licensee transmitting virtual currencies must hold like-kind virtual currencies in the same volume obligated to consumers. Virtual currency means a digital representation of value used as a medium of exchange, a unit of account, or a store of value. Virtual currency licensees must provide information to any person seeking to use the licensee's products or services including a schedule of fees and charges, whether the product or services are insured, whether the transfer is irrevocable, the licensee's liability for mistakes, and additional disclosures as required by the Director established in rule.

When applying for a license, a virtual currency money transmitter must provide a third-party security audit of their electronic systems to the Department of Financial Institutions (DFI).

Each online currency exchanger must maintain a surety bond in an amount based on the previous year's currency exchange volume. The minimum surety bond must be at least $10,000 and not exceed $50,000 and the surety bond must run to the state of Washington. The Director of the DFI may issue a temporary cease and desist order if an online currency exchanger does not maintain a surety bond in the required amount. The Director may increase the amount of the bond up to a maximum of $1 million based on the nature and volume of business activities and the financial health of the company. Security in lieu of bonds is no longer available for money transmitters.

The Act creates specific exclusions which includes a person who is a contracted service provider of a financial institution that provides processing, clearing, or settlement services in connection with wire transfers, credit and debit card transactions, prepaid access transactions or similar fund transfers that facilitate payment for goods and services using bank secrecy act regulated institutions. Other exclusions include services that transmit wages or employee benefits on behalf of employers; or the lawful business of bookkeeping or accounting.

The new Act clarifies that civil penalties are not to exceed $100 per violation per day for each day the violation is outstanding. The definition of stored value is changed to prepaid access. Prepaid access means access to money that has been paid in advance and can be retrieved through an electronic device or vehicle. Money transmission does not include the provision solely of connection services to the internet, telecommunication services, or network access. The DFI may provide to the public a list of authorized delegates of licensees regulated under the Act.

SB 5039, Chapter 106, Laws of 2017, Adopting the Uniform Electronic Legal Material Act, Effective January 1, 2018.

The new law clarifies that Washington State's legal materials are defined to include Washington's Constitution, session laws, the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), rules published in the Washington State Register (WSR), and state agency rules not published in the WSR. The Secretary of

State, statute law committee, and agencies are official publishers for the state legal materials.

If an official publisher of legal materials publishes legal materials solely in electronic form, it must designate the electronic record as the official record and authenticate it. If legal materials are published in both an electronic and a non-electronic version, the official publisher can designate the electronic version as the official record, as long as the publisher authenticates it. When authenticated, the electronic record is presumed to be an accurate copy of the legal materials in Washington State's official records. The same presumption applies to other states' official records if the states publish and authenticate electronic official records under a law substantially similar to Uniform Electronic Legal Material Act (UELMA). Legal materials must be complete, intact, usable, and publically available. The official publisher must also provide for back-up and disaster recovery of legal materials in its electronic official records.

The law provides for certain factors that must be considered when selecting the technology and methods used to authenticate and preserve official records electronically. These factors include the best practices of other jurisdictions; the users' needs; compatibility of the selected system with other electronic records systems in Washington; and compatibility of Washington's systems with those of other states that adopt substantially similar laws.

SB 5081, Chapter 281, Laws of 2017, Adopting the Revised Uniform Law on Notarial Acts, Effective July 1, 2018.

The term "notarial act" is defined similarly to current law, but specifically encompasses acts performed with respect to tangible and electronic records. A notarial act must be evidenced by a certificate containing the notarial officer's title, jurisdiction, and be signed and dated contemporaneously with the notarial act. The Revised Uniform Law on Notarial Acts includes various acceptable certificate formats and provides for the form, content, and use of a stamping device, which can be a physical device or an electronic device or process.

The bill is substantially similar to the Revised Uniform Act and allows a notary may obtain a license endorsement as an "electronic records notary public" from Department of Licensing (DOL). A notary may note a protest of a negotiable instrument only if the notary is licensed to practice law in this state, acting under the authority of a licensed attorney, or acting under the authority of a financial institution regulated by the state. In addition notaries may not notarize their own signature or the signature of in-laws or step relatives, and must compare the original document being notarized to a copy of the original document. Notary certificates must be in English or in a dual language format with one language being English. The Director of DOL does not have authority to invalidate a notarial act, and DOL must create and maintain an electronic database of licensed notaries.

SB 5100, Chapter 177, Laws of 2017, Requiring Financial Literacy Seminars for Students at Institutions of Higher Education, Effective July 23, 2017.

By the 2017-18 academic year, each institution of higher education must take reasonable steps to ensure each enrolled student participates in a financial literacy seminar. The seminar must include information being provided to State Need Grant recipients under current law. Subject to the availability of funds, each institution of higher education must take reasonable steps to ensure that each incoming student participates in a financial workshop. The workshops must also include recommendations by the Financial Education Public-Private Partnership. The institutions are encouraged to present the seminars during student orientation or as early as possible in the academic year.

SB 5144, Chapter 61, Laws of 2017, Addressing the Washington Credit Union Act, Effective July 23, 2017.

The new law makes changes to the corporate governance provisions applicable to state-chartered credit unions in the Washington Credit Union Act.

The credit union's supervisory committee may now perform or arrange for additional audits as requested by the board of directors, management, or the supervisory committee. In addition, the new law provides that the supervisory committee shall monitor the implementation of management responses to adverse findings in audits or regulatory examinations. The supervisory committee shall implement a process for receiving and responding to whistleblower complaints. The supervisory committee may retain independent counsel, other professional advisors, or consultants as necessary to perform their required duties. Quarterly meetings of the supervisory committee are no longer required.

Members of the state-chartered credit union may remove a supervisory committee member at a special membership meeting called for that purpose. At the same meeting a supervisory committee member is removed, a replacement supervisory committee member may be elected as an interim member to complete the removed member's term.

A credit union may establish an audit committee in lieu of a supervisory committee. An audit committee and its members have the same duties and powers, and are subject to the same limitations as a supervisory committee. Requests for a special membership meeting may be called to discuss reports by the supervisory committee regarding the failure of the board to adequately respond to findings or recommendations. At a special membership meeting only the agenda items specified in the notice may be considered.

A special meeting may also be called by a unanimous vote of the supervisory committee to suspend a credit union director for cause. State-chartered credit unions are no longer required to submit a marketing plan and an annual report to the DFI when applying for designation as a low-income credit union. The parity provision—the latest

date that a state-chartered credit union has the powers and authorities a federal credit union is extended from July 24, 2015 to July 23, 2017.

SB 5372, Chapter 66, Laws of 2017, Addressing State Audit Findings of Noncompliance with State Law, Effective July 23, 2017.

The State Auditor annually audits certain financial statements prepared by the Office of Financial Management (OFM) and conducts post-audits of state agencies. The Auditor must send reports of its audits to the Governor, OFM, the state agency audited, the Joint Legislative Audit and Review Committee (JLARC), legislative fiscal committees, and the Secretary of the Senate and Chief Clerk of the House. The Auditor must send reports of audits finding that an agency has not complied with state law to the Office of the Attorney General.

Under the new law if the State Auditor finds in an audit that an agency has not complied with state law within 30 days of receiving an audit finding that it has not complied with state law, the audited agency must submit a response and remediation plan to OFM. OFM must then submit the final response and remediation plan to the Governor, State Auditor, JLARC, and relevant House and Senate fiscal and policy committees within 60 days of the initial audit findings. If, at the next succeeding audit, the Auditor determines that the audited agency has not made substantial progress in remediating its noncompliance, the Auditor must notify the same entities as above. The Senate Committee on Facilities and Operations and the Executive Rules Committee of the House of Representatives are authorized to refer the finding of noncompliance to the Attorney General for legal action.

SSB 5374, Chapter 44, Laws of 2017, Concerning State Employee Whistleblower Protection, Effective July 23, 2017.

The state Whistleblower Protection Program encourages state employees to report suspected improper governmental action by providing protections to those employees who report these activities. The new law defines improper governmental action to include ex-parte communication in a pending matter in which the agency is a party between an agency employee and a presiding officer, hearings officer, or administrative law judge that violates the Administrative Procedures Act or other similar provisions of law. The availability of other avenues for addressing the ex-parte communication does not bar an investigation by the State Auditor. The new law provides that the confidentiality of an employee who reports improper governmental conduct to the Auditor or other public official is protected regardless of whether an investigation is initiated.