

**TENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, January 23, 2013

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

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 fifth order of business.

INTRODUCTION AND FIRST READING

SB 5183 by Senators Padden and Kline

AN ACT Relating to financing statements to perfect security interests; amending RCW 62A.9A-502 and 62A.9A-503; providing an effective date; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5184 by Senators Benton, Darneille, Roach, Nelson and Hasegawa

AN ACT Relating to the expansion of the membership of the capital projects advisory review board; and amending RCW 39.10.220 and 43.131.408.

Referred to Committee on Governmental Operations.

SB 5185 by Senators Roach, Benton, Conway, Chase and Shin

AN ACT Relating to the powers of water-sewer districts; and amending RCW 57.08.005.

Referred to Committee on Governmental Operations.

SB 5186 by Senators Roach, Conway, Benton, Chase and Shin

AN ACT Relating to contractor's bond; amending RCW 39.08.030 and 39.08.030; providing an effective date; and providing an expiration date.

Referred to Committee on Local Government.

SB 5187 by Senators Smith, Becker, Roach, Schoesler and Honeyford

AN ACT Relating to protecting livestock against predator attacks; and amending RCW 77.36.030, 77.15.120, 77.15.130, 77.15.410, and 77.15.430.

Referred to Committee on Natural Resources & Parks.

SB 5188 by Senators Smith, Becker, Roach, Schoesler, Honeyford and Holmquist Newbry

AN ACT Relating to addressing imminent threats to commercial livestock caused by wolves; amending RCW 77.15.120, 77.15.130, 77.15.410, and 77.15.430; and adding a new section to chapter 77.36 RCW.

Referred to Committee on Natural Resources & Parks.

SB 5189 by Senators Smith, Benton, Braun, Becker, Padden, Hill, Bailey, Sheldon, Dammeier, Honeyford and Roach

AN ACT Relating to photovoltaic electrical systems; and adding a new section to chapter 19.28 RCW.

Referred to Committee on Commerce & Labor.

SB 5190 by Senators Eide, King, Frockt, Shin and Schlicher

AN ACT Relating to public contracts for transportation improvement projects; amending RCW 60.28.011, 39.08.030, 39.08.030, 39.12.040, 47.04.082, and 47.28.140; reenacting and amending RCW 39.08.010; adding a new section to chapter 47.28 RCW; providing an effective date; and providing an expiration date.

Referred to Committee on Transportation.

SB 5191 by Senator Honeyford

AN ACT Relating to the owner of a beneficial interest in real property; amending RCW 61.24.030 and 65.08.070; and reenacting and amending RCW 61.24.005.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5192 by Senator Honeyford

AN ACT Relating to water-sewer district connection charges; and amending RCW 57.08.005.

Referred to Committee on Governmental Operations.

SB 5193 by Senators Smith, Roach, Honeyford and Delvin

AN ACT Relating to large wild carnivore conflict management; amending RCW 77.08.030, 77.36.100, 77.36.130, 46.18.200, 46.17.220, 46.68.425, and 46.18.060; reenacting and amending RCW 77.36.010 and 77.12.170; adding new sections to chapter 77.36 RCW; adding a new section to chapter 46.04 RCW; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5194 by Senator Honeyford

AN ACT Relating to reducing adjustments to compensation for educational and academic employees; amending RCW 28A.400.205, 28B.50.465, 28B.50.468, and 28A.405.415; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5195 by Senators Rolfes, Hill, Tom, Bailey and Fain

AN ACT Relating to allowing nonprofit institutions recognized by the state of Washington to be eligible to participate in the state need grant program; amending RCW 28B.92.030, 28B.105.020, 28B.133.010, 28B.133.050, and 43.88C.010; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5196 by Senators Keiser, Frockt, Darneille, Kohl-Welles, Schlicher and Conway

AN ACT Relating to restoring payment rates for community residential providers and annually adjusting payment rates for community residential providers by the rate of inflation; adding a new section to chapter 71A.12 RCW; creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5197 by Senators Dammeier, Rolfes, Litzow, Billig, Mullet, Becker, Hill, Hargrove, Braun, Honeyford, Roach and Hewitt

AN ACT Relating to safe school buildings; amending RCW 28A.335.010; and adding new sections to chapter 28A.335 RCW.

Referred to Committee on Ways & Means.

SB 5198 by Senators Darneille, Dammeier, Harper, Billig and Roach

AN ACT Relating to exempting from public inspection and copying personal information relating to children; and reenacting and amending RCW 42.56.230.

Referred to Committee on Human Services & Corrections.

SB 5199 by Senators Ericksen and Holmquist Newbry

AN ACT Relating to de facto changes in water rights for irrigation purposes that involved conversion to more efficient irrigation technologies; amending RCW 90.03.380 and 90.03.380; adding a new section to chapter 90.03 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 5200 by Senators Hatfield and Shin

AN ACT Relating to consolidating a new exempt withdrawal of groundwater into an existing public water system; and amending RCW 90.44.105.

Referred to Committee on Agriculture, Water & Rural Economic Development.

SB 5201 by Senators Ranker, Ericksen, Harper, Hobbs, Keiser, Kline, Eide and Hasegawa

AN ACT Relating to accelerating cleanup of hazardous waste sites; amending RCW 70.105D.010, 70.105D.020, 70.105D.030, 70.105D.040, and 70.105D.050; reenacting and amending RCW 70.105D.070, 43.84.092, and 43.84.092; adding new sections to chapter 70.105D RCW; creating a new section; providing a contingent effective date; and providing a contingent expiration date.

Referred to Committee on Ways & Means.

SB 5202 by Senators Chase, Kohl-Welles, Conway, Shin, Nelson, Darneille, Frockt, McAuliffe, Keiser, Kline, Harper and Rolfes

AN ACT Relating to local animal care and control functions; amending RCW 15.53.9018, 15.53.9044, and 18.92.260; adding a new chapter to Title 16 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Agriculture, Water & Rural Economic Development.

SB 5203 by Senators Kohl-Welles, Shin, Chase, Nelson, Conway, Delvin, Darneille, Frockt, Kline and Harper

AN ACT Relating to the prevention of animal cruelty; adding a new section to chapter 16.52 RCW; and prescribing penalties.

Referred to Committee on Law & Justice.

SB 5204 by Senators Kohl-Welles, Shin, Chase, Carrell, Conway, Nelson, Delvin, Darneille, Frockt, Keiser and Kline

AN ACT Relating to the prevention of animal cruelty; amending RCW 16.52.117, 16.52.207, 16.52.320, and 9.08.070; reenacting and amending RCW 16.52.011; adding new sections to chapter 16.52 RCW; and prescribing penalties.

Referred to Committee on Law & Justice.

SB 5205 by Senators Becker, Keiser, Schlicher, Parlette, Shin and Dammeier

AN ACT Relating to the additional surcharge imposed on registered nurses and licensed practical nurses; amending RCW 43.70.110 and 43.70.250; and repealing RCW 18.79.2021.

Referred to Committee on Health Care.

ESB 5206 by Senators Becker, Keiser, Schlicher, Parlette and Conway

AN ACT Relating to increasing the health professions participating in online access to the University of Washington health sciences library; and amending RCW 43.70.110.

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Referred to Committee on Appropriations Subcommittee on Health & Human Services.

SB 5207 by Senators Fain, Benton, Hobbs, Roach, Nelson, Mullet, Hatfield and Keiser

AN ACT Relating to making technical corrections and updating licensing and enforcement provisions of the consumer loan act; and amending RCW 31.04.015, 31.04.025, 31.04.027, 31.04.035, 31.04.093, 31.04.102, 31.04.105, 31.04.155, 31.04.221, 31.04.290, 31.04.293, and 31.04.297.

Referred to Committee on Business & Financial Services.

SB 5208 by Senators Benton, Hobbs, Nelson, Hatfield, Mullet and Shin

AN ACT Relating to banks, trust companies, savings banks, and savings associations, and making technical amendments to the laws governing the department of financial institutions; amending RCW 30.04.010, 30.04.070, 30.04.111, 30.04.215, 30.04.217, 30.04.240, 30.04.260, 30.04.280, 30.08.140, 30.08.140, 30.08.155, 30.38.010, 30.38.015, 30.46.020, 30.46.030, 30.46.040, 30.46.050, 30.46.060, 30.46.070, 30.46.080, 30.46.090, 32.04.030, 32.08.140, 32.08.140, 32.08.142, 32.08.153, 32.50.030, 33.12.012, 33.24.010, and 33.32.060; amending 2011 c 303 s 9 (uncodified); adding a new section to chapter 32.04 RCW; repealing RCW 30.08.095, 32.08.146, 32.08.155, and 32.08.1551; providing an effective date; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5209 by Senators Hobbs, Benton, Nelson, Mullet and Hatfield

AN ACT Relating to licensing and enforcement provisions applicable to money transmitters; amending RCW 19.230.020, 19.230.040, 19.230.110, 19.230.120, 19.230.150, 19.230.200, and 19.230.310; reenacting and amending RCW 19.230.010; and adding a new section to chapter 19.230 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5210 by Senators Nelson and Hatfield

AN ACT Relating to the department of financial institutions' regulation of mortgage brokers and clarifying the department's existing regulatory authority regarding residential mortgage loan modification services; and amending RCW 19.146.010, 19.146.020, 19.146.0201, 19.146.060, 19.146.220, 19.146.240, and 19.146.228.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5211 by Senators Hobbs, Eide, Kline, Ranker, Hatfield, Harper, Billig, Hasegawa, Kohl-Welles, Shin, Keiser, Frockt, Rolfes, Hill, Conway and Nelson

AN ACT Relating to social networking accounts and profiles; adding new sections to chapter 49.44 RCW; and prescribing penalties.

Referred to Committee on Commerce & Labor.

SB 5212 by Senators Holmquist Newbry, Becker and Roach

AN ACT Relating to the Washington state horse park authority; amending RCW 79A.30.030; and creating a new section.

Referred to Committee on Community Development, Housing & Tribal Affairs.

SB 5213 by Senators Becker, Tom, Bailey, Honeyford and Frockt

AN ACT Relating to prescription review for medicaid managed care enrollees; and reenacting and amending RCW 74.09.522.

Referred to Committee on Ways & Means.

SB 5214 by Senators Becker, Rivers, Benton, Honeyford, Holmquist Newbry, Carrell, Padden and Schlicher

AN ACT Relating to a business and occupation tax deduction for donated medical services; and adding a new section to chapter 82.04 RCW.

Referred to Committee on Health Care.

SB 5215 by Senators Becker, Holmquist Newbry, Ericksen, Dammeier, Honeyford and Schlicher

AN ACT Relating to health care professionals not being required to participate in any public or private third-party reimbursement program as a condition of licensure; and adding a new section to chapter 18.130 RCW.

Referred to Committee on Ways & Means.

SB 5216 by Senators Rolfes, Bailey, Mullet, Parlette, Keiser, Shin and Conway

AN ACT Relating to long-term care insurance; and amending RCW 48.83.090 and 48.83.170.

Referred to Committee on Health Care & Wellness.

SB 5217 by Senator Schoesler

AN ACT Relating to eliminating the Washington state quality award program; amending RCW 43.17.380, 43.185C.210, and 43.185C.240; and repealing RCW 43.17.390 and 43.330.084.

Referred to Committee on Governmental Operations.

SB 5218 by Senators Dammeier, Benton, Conway, Roach, Darneille and Billig

AN ACT Relating to the lien for collection of sewer utility charges by counties; and amending RCW 36.94.150.

Referred to Committee on Governmental Operations.

SB 5219 by Senators Honeyford, Hatfield, Smith, Schoesler, Delvin and Hewitt

AN ACT Relating to retaining water resources to assure the vitality of local economies; adding new sections to chapter 90.42 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 5220 by Senators Conway and Shin

AN ACT Relating to membership on city disability boards; and amending RCW 41.26.110.

Referred to Committee on Appropriations.

ESB 5221 by Senators Kohl-Welles, Carrell and Darneille

AN ACT Relating to notification of release of a person following dismissal of charges based on incompetence to stand trial; and amending RCW 10.77.065.

Referred to Committee on Judiciary.

SB 5222 by Senators Kohl-Welles, Hatfield, Hobbs, Frockt, Chase, Hasegawa and Kline

AN ACT Relating to industrial hemp; and creating new sections.

Referred to Committee on Ways & Means.

SB 5223 by Senators Kohl-Welles, Fraser, Carrell, Darneille, Frockt, Keiser, Chase, Hasegawa, Kline, Shin, Roach, Schlicher, McAuliffe and Conway

AN ACT Relating to adding children victims of trafficking to the definition of abuse and neglect; amending RCW 26.44.020; reenacting and amending RCW 26.44.020; providing an effective date; and providing an expiration date.

Referred to Committee on Human Services & Corrections.

SB 5224 by Senators Kohl-Welles, Murray, Keiser, Chase, Darneille, Nelson, Hasegawa, Kline, Frockt and Conway

AN ACT Relating to the Washington health security trust; amending RCW 41.05.130, 66.24.290, 82.24.020, 82.26.020, 82.08.150, 43.79.480, and 41.05.220; reenacting and amending RCW 41.05.120; adding new sections to chapter 82.02 RCW; adding a new chapter to Title 43 RCW; creating new sections; repealing RCW 82.04.260, 82.04.260, and 48.14.0201; providing contingent effective dates; and providing an expiration date.

Referred to Committee on Health Care.

SB 5225 by Senators Becker, Bailey, Ericksen and Carrell

AN ACT Relating to exempting public hospital districts from certificate of need requirements; amending RCW 70.38.105 and 70.38.111; and creating a new section.

Referred to Committee on Health Care.

SB 5226 by Senators Becker, Bailey, Ericksen and Carrell

AN ACT Relating to exempting public hospital districts from certificate of need requirements; amending RCW 70.38.105 and 70.38.111; and creating a new section.

Referred to Committee on Health Care.

SB 5227 by Senators Schoesler, Holmquist Newbry, Delvin, Hatfield, Shin, King, Hobbs, Sheldon, Padden, Honeyford, Dammeier and Roach

AN ACT Relating to the corporate officer provisions of the employment security act; amending RCW 50.12.070, 50.04.165, 50.04.310, 50.04.080, and 50.04.090; creating a new section; and repealing RCW 50.24.230.

Referred to Committee on Commerce & Labor.

SB 5228 by Senators Shin, Chase, Keiser, Schlicher and Conway

AN ACT Relating to public notification of local health conditions; adding a new section to chapter 43.70 RCW; and adding a new section to chapter 70.05 RCW.

Referred to Committee on Health Care.

SB 5229 by Senators Shin, Roach, Benton, Chase, Harper, Delvin, Honeyford and Schlicher

AN ACT Relating to the penalty schedule for alcohol and drug violators; and reenacting and amending RCW 46.61.5055.

Referred to Committee on Law & Justice.

SB 5230 by Senators Shin, Chase, Kohl-Welles, Keiser and Schlicher

AN ACT Relating to operating a motor vehicle while smoking; adding a new section to chapter 46.61 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Transportation.

#### MOTION

On motion of Senator Fain, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5184 which was referred to the Committee on Governmental Operations, Senate Bill No. 5196 which was referred to the Committee on Ways & Means; Senate Bill No. 5198 which was referred to the Committee on Human Services & Corrections; and Senate Bill No. 5203 and Senate Bill No. 5204 which were referred to the Committee on Law & Justice.

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SIGNED BY THE PRESIDENT

The President signed:  
SENATE CONCURRENT RESOLUTION NO. 8400.

MOTION

At 10:05 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 11:00 a.m. by President Owen.

MOTION

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

MOTION

Senator Fain moved adoption of the following resolution:

SENATE RESOLUTION  
8606

By Senator Fain

WHEREAS, The Senate adopted permanent rules for the 2013-2015 biennium under Senate Resolution 8601; and

WHEREAS, The notice requirements set forth in Senate Rule 35 have been satisfied; and

WHEREAS, The Senate desires to change the name of the committee on Financial Institutions & Insurance to the Committee on Financial Institutions, Housing & Insurance;

NOW, THEREFORE, BE IT RESOLVED, That Rule 41 is amended as follows:

**"Rule 41.** The president shall appoint all conference, special, joint and standing committees on the part of the senate. The appointment of the conference, special, joint and standing committees shall be confirmed by the senate.

In the event the senate shall refuse to confirm any conference, special, joint or standing committee or committees, such committee or committees shall be elected by the senate.

The following standing committees shall constitute the standing committees of the senate:

- |   |                  |
|---|------------------|
| Standing Committee                                    | Total Membership |
| 1. Agriculture, Water & Rural Economic Development    | 7                |
| 2. Commerce & Labor                                   | 7                |
| 3. Early Learning & K-12 Education                    | 11               |
| 4. Energy, Environment & Telecommunications           | 9                |
| 5. Financial Institutions, <u>Housing</u> & Insurance | 7                |
| 6. Governmental Operations                            | 7                |
| 7. Health Care  | 9                |
| 8. Higher Education                                   | 7                |
| 9. Human Services & Corrections                       | 7                |
| 10. Law & Justice                                     | 7                |
| 11. Natural Resources & Parks                         | 7                |
| 12. Rules 21 (plus the Lieutenant Governor)           |                  |
| 13. Trade & Economic Development                      | 7                |
| 14. Transportation                                    | 16               |
| 15. Ways & Means                                      | 23"              |

Senators Fain and Frockt spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8606.

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

MOTION

Senator Frockt moved adoption of the following resolution:

SENATE RESOLUTION  
8607

By Senator Frockt

WHEREAS, The Senate adopted permanent rules for the 2013-2015 biennium under Senate Resolution 8601; and

WHEREAS, The notice requirements set forth in Senate Rule 35 have been satisfied; and

WHEREAS, The Senate desires to make changes to Senate rules concerning the chair of the facilities and operations committee;

NOW, THEREFORE, BE IT RESOLVED, That Rule 8 is amended as follows:

**"Rule 8.** 1. After the reorganization caucuses of the senate, the majority caucus shall designate ~~((four))~~ three members and the minority caucus shall designate three members to serve on the facilities and operations committee. The ~~((deputy leader of the majority caucus))~~ lieutenant governor shall be the nonvoting chair of the facilities and operations committee. The operation of the senate shall transfer to the newly designated members after the reorganization caucuses of the senate or at any time after the reorganization caucuses if a different caucus becomes the majority caucus.

2. All necessary expenses of the senate incurred during the session shall be signed for by the secretary and approved by a majority of the committee on facilities and operations. The committee on facilities and operations shall carefully consider all items of expenditure ordered or contracted on the part of the senate, and report upon the same prior to the voucher being signed by the secretary of the senate authorizing the payment thereof. The committee on facilities and operations shall issue postage only as follows:

(a) To elected or appointed members of the senate in an amount sufficient to allow performance of their legislative duties.

(b) To the secretary of the senate in an amount sufficient to carry out the business of the senate."

Senator Fraser spoke in favor of adoption of the resolution.

MOTION

Senator Hatfield moved that the following amendment be adopted:

In the first sentence of Rule 8, after "the majority caucus shall designate" strike "~~((four))~~ three members" and insert "four members"

Senators Hatfield and Fain spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hatfield to Senate Resolution No. 8607.

The motion carried by Senator Hatfield carried and the amendment was adopted by voice vote.

Senator Fain spoke against adoption of the resolution.  
 Senator Frockt spoke in favor of adoption of the resolution.

Senator Frockt demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senator Murray spoke in favor of adoption of the resolution.  
 Senator Rivers spoke against adoption of the resolution.

#### POINT OF ORDER

Senator Frockt: "The Senator respectfully is not speaking to the resolution before us."

#### REPLY BY THE PRESIDENT

President Owen: "The President believes that Senator Frockt point is well taken. Please address only the resolution."

Senators Kohl-Welles and Fraser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8607 as amended.

The Secretary called the roll on the motion by Senator Frockt and the motion to adopt Senate Resolution No. 8607 as amended failed by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Chase, Cleveland, Conway, Darneille, Eide, Fraser, Frockt, Hargrove, Harper, Hasegawa, Hatfield, Hobbs, Keiser, Kline, Kohl-Welles, McAuliffe, Mullet, Murray, Nelson, Ranker, Rolfes, Schlicher and Shin

Voting nay: Senators Bailey, Baumgartner, Becker, Benton, Braun, Carrell, Dammeier, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon, Smith and Tom

#### PARLIAMENTARY INQUIRY

Senator Fain: "Thank you Mr. President. I just want to remind the body that the original plan was to go at ease for a moment prior to the State of the Judiciary but I would ask that members remain present and we'll go straight into that, with the permission of the President."

#### REPLY BY THE PRESIDENT

President Owen: "That is what the plan is. Thank you."

The Sergeant at Arms of the Senate announced the arrival of the members of the House of Representatives at the Senate Chamber doors. The Sergeant at Arms of the Senate and the Sergeant at Arms of the House escorted Deputy Speaker Pro Tempore of the House, the Honorable Tina Orwall, House Majority Floor Leader Tami Green and House Assistant Republican Floor Leader Matt Shea to seats at the rostrum. The members of the House of Representatives were invited to seats within the Chamber.

#### JOINT SESSION

Pursuant to Senate Concurrent Resolution No. 8400, the President called the Joint Session to order. The Secretary called the roll of the members of the Senate. The Secretary called the roll of the members of the House of Representatives. The President declared that a quorum of the Legislature was present.

#### REMARKS BY THE PRESIDENT

President Owen: "This joint session has been convened to receive the State of the Judiciary message from the Honorable Barbara Madsen, Chief Justice of the Washington State Supreme Court."

The President appointed a committee of honor to escort the Justices of the State Supreme Court to the Senate Chamber: Representatives Holy and Stonier; Senators Frockt and Pearson.

The President appointed a committee of honor to escort the statewide elected officials to the Senate Chamber: Representatives Farrell and Scott; Senators Bailey and Nelson.

The President appointed a committee of honor to advise the Honorable Barbara Madsen, Chief Justice of the Washington State Supreme Court, that the joint session had assembled and to escort her to the Senate Chamber: Representatives Goodman and Nealey; Senators Chase and Padden.

The Sergeant at Arms of the Senate announced the arrival of the Justices of the State Supreme Court at the Chamber doors. The committee of honor escorted the Justices of the State Supreme Court to the front of the Chamber and they were introduced: Justice Charles W. Johnson, Justice Susan Owens, Justice Mary E. Fairhurst, Justice Debra L. Stephens, Justice Charlie K. Wiggins, Justice Steven Gonzalez and Justice Sheryl Gordon-McCloud.

The Sergeant at Arms of the Senate announced the arrival of the statewide elected official at the Chamber doors. The committee of honor escorted the statewide elected official to the front of the Chamber and he was introduced: State Auditor Troy Kelley.

The Sergeant at Arms of the Senate announced the arrival of the Honorable Barbara Madsen, Chief Justice of the Washington State Supreme Court, at the Chamber doors. The committee of honor escorted the Honorable Barbara Madsen, Chief Justice of the Washington State Supreme Court, to the rostrum of the Senate.

The Washington State Patrol Honor Guard consisting of Lieutenant Mike Turcott and Sergeant Ted DeHart presented the Colors. The President led the Joint Session in the Pledge of Allegiance. The Washington State Patrol Honor Guard retired from the Chamber. The prayer was offered by Rabbi Seth Goldstein of Temple Beth Hatfiloh, Olympia.

Rabbi Goldstein: "Source of all Life and Blessing: We ask that your blessing descend upon this body. May all those who assemble here be endowed with a mind of wisdom and a heart of compassion. May the spirit of goodness fill their souls and may they continue to see one another and the people they serve as full, whole human beings, created in the divine image and worthy of love and respect. And on this day when we focus on the judiciary, we ask for blessing not only for those who are charged with making the laws, but those who are charged with their interpretation and application. May all those who serve in the judiciary be blessed with a sense of fairness and of justice, of equality and of service, of righteousness and of peace. We are mindful of that universal charge we find in Scripture, in the book of Deuteronomy: *tzedek tzedek tirdof*—justice, justice shall you pursue. It is asked, 'Why is the word 'justice' repeated?' One interpretation is that this verse first teaches that our desired outcome is justice—justice must be the goal of a well-ordered society. The repetition of the word implies that not only must our

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goal be justice, but the path to justice—the process by which we achieve justice in our society—must also be just. We are blessed that our system of government allows for the separation of powers, provides for the orderly execution of justice and establishes a dynamic system of legal interpretation. May this continue to be so. And may all those who serve the public good, in any capacity, from any place, find favor in Your eyes and may the work of their hands benefitting the people of our state and country long endure. Amen.”

The President welcomed and introduced the Honorable Barbara Madsen, Chief Justice of the State Supreme Court.

### STATE OF THE JUDICIARY

Chief Justice Barbara Madsen: “Thank you Mr. President, Speaker Chopp, elected officials, members of the House and Senate, fellow justices and judges, ladies, and gentlemen. Let me add my welcome to all of you new legislators and to those of you who have changed houses. I had the chance to meet many of you over the last week or so, either swearing you or dancing at the Ball with you, or celebrating the Temple of Justice’s birthday with you. For those of you I have not yet met, I do look forward to meeting all you as the course of this legislative session runs. Whatever the occasion to bring us together, I believe that time spent getting to know one another is time well spent.

I am honored to be here today, along with my colleagues on the Washington Supreme Court, to deliver this report on the state of Washington’s judiciary. As many of you know, our court system operates through a system of trial courts and appellate courts. Many of the leaders of our court associations are with us today, in the gallery. I would like to take a moment to introduce them: in particular, Presiding Chief Judge Christine Quinn-Brintnall from the Court of Appeals, Division Two in Tacoma; Benton/Franklin County Superior Court Judge Craig Matheson, president of the Superior Court Judges’ Association of Washington; Judge Sara Derr from Spokane County District Court, president of the District and Municipal Court Judges’ Association and she’s with us as well. These judges are joined by members of the Board for Judicial Administration, that’s the policy-setting board for the courts. I am very proud of these judges and the people they represent who work in our court system. I would like to have them stand up, members of the Board for Judicial Administration. And I’d like to single out, Judge Chris Wickham who is my co-chair. Thank you Judge Wickham. Judge Wickham is a Superior Court judge here in Thurston County. And we have the administrative heads of our three agencies with us as well: The Washington State Court Administrator who heads the Administrative Office of the Courts, Callie Dietz; the Executive Director of the Office of Civil Legal Aid, Jim Bamberger; and the Director for the Office of Public Defense, Joanne Moore. It is no secret that we are experiencing very challenging times here in our state and in our nation. I have not spoken to anyone who is predicting that you will have an easy session this year. I think you will be spending long days and late nights in Olympia.

As the spokesperson for the courts, I also feel a great weight on my shoulders. Even in the best of times, our divided government requires careful leadership in each branch. As you begin this legislative session, I know that many of you are thinking about the issue of divided government. The gray areas around the edges of our respective powers can give rise to debate and even disagreement about the areas of authority in which each of the branches operate. Such debate and disagreement is healthy – indeed I think this is a part of the checks and balances that our founders intended. Even in a divided government, the

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branches are meant to work together. As many of you know, this is the 100<sup>th</sup> anniversary of the Temple of Justice. The Temple, which is home to the Supreme Court, was the first building on our capitol campus. If you look at the campus from Budd Inlet, you will see that the Temple appears to blend into the capitol building – and together, the Temple and the Capitol are covered by one dome. In designing the capitol group in this way, the architects were intending to make a statement to reflect the reality that, together, the three branches form one government. As the legislature and the governor, the judiciary also has a role to play. I want to assure all of you that the courts are committed to working with all of you on matters of common interest and concern within the limits of our branch’s authority.

Unlike the legislature and the governor, our courts generally operate under the radar screen. More than two million individual civil and criminal cases are filed every year in our trial courts. Thousands of cases are decided in our appellate courts every year. We have one constitutional duty. That is to fairly, effectively, and timely adjudicate the civil and criminal disputes that come before us.

At a judge’s swearing-in a few weeks ago, I heard a story from John Ladenburg, who is formerly the Pierce County Executive. John was telling us that he was on a trade mission to China along with Microsoft, Amazon, and some other U.S. companies. According to John, one of the delegates asked a Chinese government minister what he thought was needed to attract new businesses to China. His answer: ‘Lawyers.’ You might laugh – you might clap! The Washington delegation laughed. But when they laughed, according to John, the minister became incensed. He said, ‘Without lawyers there are no courts. Without courts there is no legal system. Without a legal system there is no protection. There are no commercial laws. You do not understand the advantage you have in your country. You have the rule of law. Your courts protect people and their property. That makes all the difference.’ Now, lest you think I am claiming all the credit for the courts, I believe that it is the legislature, the executive, and the courts working together that provide the kind of environment that is necessary for individuals and businesses to grow and prosper. Even with its flaws, our system is the envy of the world.

We know that the law is complex. Cases are complex. And disagreements are predictable. Cases like *McCleary* that address school funding, and the pending case of *League of Education Voters* which involves a challenge to restrictions on the power of the legislature to tax, these will always provoke controversy. That comes with the constitutional responsibility placed on courts. But it’s how we work together to meet the very complex and difficult challenges that will determine the future for the public that we all serve. Last week, we heard comments from outgoing Governor Gregoire and newly-elected Governor Inslee. Though their plans for meeting the future differed, the common theme was the same: We are all facing significant challenges maybe now more than ever as year upon year of economic difficulties continue.

I recently learned that the Chinese symbol for crisis is a combination of two concepts, opportunity and danger. The opportunity is to redefine how we deliver services to the public. The danger is in failing to adapt.

The extensive budget cuts of the past four years have required the courts to become creative and to be innovators. And we’re committed to continue looking for new, efficient processes to help us fulfill our responsibility to deliver justice. Though being the Chief does carry its challenges, the position also gives me a bird’s eye view of the tremendous job that our courts are doing to innovate in these tough budget times. I want to mention

just a few of these creative solutions: At the Administrative Office of the Courts, we have created online education that allows judges and court personnel to stay current with changes in law and practices while reducing or eliminating travel costs and time away from court.

We are also modernizing our aging computer systems by looking at commercial, off-the-shelf products to meet the growing demands of technology in courts throughout our state.

Local courts are also working in innovative ways to help curb costs and improve service. Pierce County juvenile courts, just one example, have reduced the ‘failure to appear’ rates and detention rates by implementing a two-tiered warrant system, by calling and even conducting home visits to remind juveniles that they have to be in court, and using a continuum of alternatives to detention. This strategy is one of six that Pierce County has implemented to reduce racial and ethnic disparities in their juvenile court system. The result has been a 47% decrease in detention from 2007 to 2011.

In Seattle Municipal Court, my old alma mater, the probation department has formed a partnership with social work programs at three schools: Seattle University, the University of Washington, and the University of Southern California. Volunteers and interns from these schools have a wide range of experience and are placed in positions in anything from answering phones to assisting with assessments and collecting program data. Last year, volunteers gave nearly 16,000 hours of service. In Kitsap County District Court, the judges began transitioning to an electronic filing system, which has resulted in 80% reduction in supplies, copy machines contracts, forms, filing cabinets, and so on, as well as a 23% reduction in staffing. In King County, eight municipal courts, led by Tukwila Municipal Court, have pioneered a system for scheduling and sharing precious interpreter resources. This has reduced cost and increased availability of translators. And right here in Thurston County, the judges are developing a risk assessment tool for domestic violence defendants. Through the Washington Supreme Court Gender and Justice Commission we hope to make that tool available to judges across the state.

In this vein, we are also exploring ways to foster regional courts. District and municipal courts are where most citizens impact the justice system, and we need to foster an approach that best serves the public. More than 170 municipalities now contract with district or municipal courts. It is imperative that we examine the most efficient and cost effective method of providing judicial services to everyone coming to court in Washington State. More and more, community leaders are interested in exploring cooperative arrangements for the delivery of court services. Thanks to a grant from the State Justice Institute, we are currently exploring a concept that is broadly described as regional courts. Combined courts can contribute to better court performance, customer service, and fiscal efficiency. We want to work with you on this important court reform.

Along with the Temple of Justice centennial, this year is also the 50th anniversary of the United States Supreme Court’s decision in *Gideon v. Wainwright*. As Justice Hugo Black wrote in that ground breaking decision, ‘Lawyers in criminal courts are necessities, not luxuries.’ We can be proud that long before the United States Supreme Court expressed that belief, our legislature acted to guarantee the right to counsel in Washington State. Recently, however, we have learned that in areas of our state, the promise of access to effective assistance of counsel guaranteed by both the constitution and the legislature has not been met. Public trust and confidence in our criminal justice system depends on people knowing and believing they are being treated fairly and that their rights are being protected. A conviction may have a lifetime of consequences-including the

ability to get a job, an apartment, a student loan. A conviction may separate a family or mean losing the custody of a child. As judges, it is our duty to ensure not just the presence of counsel, but effective counsel. And it takes time to be effective. As far back as 2004, the Blue Ribbon Panel on Criminal Defense concluded that the standards for public defense services enacted in RCW 10.101 were being ignored in many jurisdictions and that the lack of enforceable standards, especially case load standards, ‘jeopardizes the ability of even the most dedicated defenders to provide adequate representation.’ After more than a year of debate, a four-month public comment period, and intense internal discussion, the Washington Supreme Court recently adopted indigent defense certification, which requires development of case load standards. But adopting the court rules is just the beginning. Now, attorneys, trial judges, and administrators must work together to find the best ways to implement certification in their courts.

We know that some legislators have concerns about how this will impact local communities but, through the Office of Public Defense, we are committed to working with cities and counties to help design workable systems. Last December, the Supreme Court ordered the Office of Public Defense to prepare a new report on how the standards and attorney certification rules were being implemented across the state. The report is due this March and will focus on how jurisdictions are working with attorney case loads and methods for addressing them successfully and with creativity. The case load limits do not become effective under our rules until October of 2013.

I want to mention also one other new initiative that the Office of Public Defense is undertaking. Because of its great success with the Parents Representation Program, you in this legislature have asked the office to take on the enormous task of reforming defense of sexually violent predators. I have no doubt that the Office of Public Defense will exercise the same scrupulous care in evaluating the most efficient and cost-effective ways of delivering services to this population that it has exercised in all of its innovative programs. We look forward to working with you on this important initiative.

Another challenge facing the branch is to effectively address racial disparities in our court system. The Washington State Center for Court Research, which operates within the judicial branch, has been hard at work collecting and sharing data on a statewide level and county-by-county. The specific details at the county and court level will help us determine the causes for disproportionality and will guide us in finding solutions. Based on data gathered so far, the task force has submitted a number of recommendations for action by the Supreme Court, for judicial branch agencies, for the different court levels, and for our justice partners, including law schools and law enforcement agencies. We need to examine the causes of disproportionality and work toward solutions. We know that ‘Justice is the Guardian of Liberty.’ These words are etched on the facade of the United States Supreme Court. It will take all of us working together to ensure that justice is equally applied. We will be asking for your help as we meet this challenge.

Likewise, we must recognize that not all people who use our court systems are able to speak English. Seventy-eight different languages were interpreted in Washington trial courts in 2012, and King County keeps a running tally that shows that they have provided interpreters for 130 different languages. However, our state has certified and registered interpreters in 35 languages, meaning that we are not able to ensure meaningful access for persons speaking many of the languages in our courts. Legal proceedings, with their technical language and complex processes, are confusing enough when you understand English. But just imagine walking into a high stakes situation where you



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don't understand a word of what was going on. As Washington's diversity continues to grow, the need for interpreters is exploding. With limited resources, we must find a way to provide interpreter services in the most efficient and effective ways possible. That is why the Supreme Court included in the budget submission to the legislature a request for funding for a pilot program for video remote interpreting. Reducing both the cost and time of travel can better focus the scarce resources where they belong. We need your help in finding a solution. We also recognize that the Great Recession has caused a host of profound legal problems for low-income Washingtonians. In 2011 alone, more than a quarter of a million calls were placed to our statewide legal aid hotline. Demand for help is particularly high in recession-sensitive areas of law such as housing, foreclosure, help with governmental support programs, domestic violence, and family safety issues. In Washington, legal aid is delivered through an innovative public private partnership. State funding supports our nationally recognized statewide legal aid provider-the Northwest Justice Project-but also 17 local volunteer legal aid programs. I'm very proud of the thousands of volunteer attorneys across the state who together delivered nearly 60,000 hours of free legal aid, worth more than \$10 million to over 20,000 individuals and families. But deep federal budget cuts have crippled legal aid. There are only 87 state-funded legal aid attorneys left to meet the needs of more than 1.8 million low-income people who are eligible for state-funded civil legal aid. Today, there is one legal aid attorney serving all of Clallam and Jefferson Counties; one legal aid attorney serves all of Southeast Washington, from Walla Walla to Clarkston; and one legal aid lawyer serves all low-income people in Grays Harbor and Pacific Counties. In our urban areas, it's not much better. There are more than 22,000 eligible clients for every single state-funded legal aid attorney. Legal aid helps to resolve cases quickly and often keeps cases out of court – and if they are in court, often helps to resolve them more quickly. Legal aid is a smart and cost-effective investment. The legal aid system, as administered by our Office of Civil Legal Aid, has received strong bipartisan support from this legislature in years past. For this, the judicial branch is grateful. But we need your continuing support to meet the civil justice needs of our state's poorest residents.

Finally, I would like to address the critical challenges that we face in keeping our courthouses safe for thousands of attorneys, jurors, court staff, litigants and members of the public. As Judge David Edwards of Grays Harbor County can attest, this is a challenge in every local jurisdiction. He is a shining example of courage in what can only be described as a terrifying ordeal that occurred in his courthouse. Given Judge Edwards' experience, the recent attack on Judge Brett Buckley at his home here in Olympia, the multiple bomb threats in courthouses throughout Washington just last month, we know that courthouse security is a continuing challenge that needs to be resolved quickly. We are truly blessed in each situation that I've mentioned, there was not a tragic ending. But hoping that this remains the case is not a policy. At a fundamental level, our democracy is dependent on a judicial branch that can decide disputes in safety. No one should be afraid to walk into a courthouse. In 2012, the security staff at Spokane County District Court confiscated over 1,000 handguns, 9,000 knives, 80 tasers, 1,700 razor blades, 1,100 cans of mace and hundreds of other items that could be used as weapons. In courts without security, these items are entering our courthouses every day. The reality is that at any given time, people who are charged with violent crimes or who are engaged in intensely emotional situations are

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all together in the same place. Simply hoping that nothing bad happens is no longer good enough.

As we look back on an extraordinarily challenging year, Washington can be proud of its judiciary and its ability to adapt, modernize, and innovate. But this is just the beginning. We will continue to devise innovative and cost efficient ways to ensure that all persons-including the most vulnerable in our society-are provided with fair and timely justice and that they have their day in court in a modern and technologically-advanced court system. With the leadership of the Board for Judicial Administration, the efforts of our exceptional judges and court staff, I am confident we will continue to turn the challenges we face into opportunities to transform the court system today and in the future. We will continue to balance the scales so that we can adapt to fiscal realities and never stray from our constitutional mission. The pursuit of justice is what this court system is all about-from its inception two centuries ago to this very day and in all the years to come. I want to thank you for the warm welcome that you have given to me and my fellow justices, and I wish you all well during the upcoming session. Thank you."

## REMARKS BY THE PRESIDENT

President Owen: "Chief Justice, we appreciate very much your very profound comments and your commitment and spirit of unity and cooperation of the Legislature. As well as we want to thank the courts throughout the state for their incredible efforts to be more efficient and effective through the creative concepts that they have developed. Thank you very much for that information."

The President called upon the committee of honor to escort Chief Justice Madsen, Chief Justice of the Washington State Supreme Court from the Chamber.

The President called upon the committee of honor to escort the State Auditor Troy Kelley from the Chamber.

The President called upon the committee of honor to escort the Justices of the Washington State Supreme Court from the Chamber.

## MOTION

On motion of Senator Fain the Joint Session was dissolved.

The Sergeant at Arms of the Senate and the Sergeant at Arms of the House escorted Deputy Speaker Pro Tempore of the House, the Honorable Tina Orwall, House Majority Floor Leader Tami Green, House Assistant Republican Floor Leader Matt Shea and the members of the House of Representatives from the Senate Chamber.

## MOTION

At 12:17 p.m., on motion of Senator Fain, the Senate adjourned until 12:00 noon, Thursday, January 24, 2013.

BRAD OWEN, President of the Senate

HUNTER GOODMAN, Secretary of the Senate



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5184	Introduction & 1 <sup>st</sup> Reading .....	1	5211	Introduction & 1 <sup>st</sup> Reading.....	3
	Other Action.....	4	5212	Introduction & 1 <sup>st</sup> Reading.....	3
5185	Introduction & 1 <sup>st</sup> Reading .....	1	5213	Introduction & 1 <sup>st</sup> Reading.....	3
5186	Introduction & 1 <sup>st</sup> Reading .....	1	5214	Introduction & 1 <sup>st</sup> Reading.....	3
5187	Introduction & 1 <sup>st</sup> Reading .....	1	5215	Introduction & 1 <sup>st</sup> Reading.....	3
5188	Introduction & 1 <sup>st</sup> Reading .....	1	5216	Introduction & 1 <sup>st</sup> Reading.....	3
5189	Introduction & 1 <sup>st</sup> Reading .....	1	5217	Introduction & 1 <sup>st</sup> Reading.....	3
5190	Introduction & 1 <sup>st</sup> Reading .....	1	5218	Introduction & 1 <sup>st</sup> Reading.....	3
5191	Introduction & 1 <sup>st</sup> Reading .....	1	5219	Introduction & 1 <sup>st</sup> Reading.....	4
5192	Introduction & 1 <sup>st</sup> Reading .....	1	5220	Introduction & 1 <sup>st</sup> Reading.....	4
5193	Introduction & 1 <sup>st</sup> Reading .....	1	5221	Introduction & 1 <sup>st</sup> Reading.....	4
5194	Introduction & 1 <sup>st</sup> Reading .....	1	5222	Introduction & 1 <sup>st</sup> Reading.....	4
5195	Introduction & 1 <sup>st</sup> Reading .....	2	5223	Introduction & 1 <sup>st</sup> Reading.....	4
5196	Introduction & 1 <sup>st</sup> Reading .....	2	5224	Introduction & 1 <sup>st</sup> Reading.....	4
	Other Action.....	4	5225	Introduction & 1 <sup>st</sup> Reading.....	4
5197	Introduction & 1 <sup>st</sup> Reading .....	2	5226	Introduction & 1 <sup>st</sup> Reading.....	4
5198	Introduction & 1 <sup>st</sup> Reading .....	2	5227	Introduction & 1 <sup>st</sup> Reading.....	4
	Other Action.....	4	5228	Introduction & 1 <sup>st</sup> Reading.....	4
5199	Introduction & 1 <sup>st</sup> Reading .....	2	5229	Introduction & 1 <sup>st</sup> Reading.....	4
5200	Introduction & 1 <sup>st</sup> Reading .....	2	5230	Introduction & 1 <sup>st</sup> Reading.....	4
5201	Introduction & 1 <sup>st</sup> Reading .....	2	8400	President Signed.....	5
5202	Introduction & 1 <sup>st</sup> Reading .....	2	8606	Adopted.....	5
5203	Introduction & 1 <sup>st</sup> Reading .....	2		Introduced .....	5
	Other Action.....	4	8607	Introduced .....	5
5204	Introduction & 1 <sup>st</sup> Reading .....	2		Not Adopted.....	6
	Other Action.....	4	<b>PRESIDENT OF THE SENATE</b>		
5205	Introduction & 1 <sup>st</sup> Reading .....	2		Remarks by the President.....	6, 9
5206	Introduction & 1 <sup>st</sup> Reading .....	2		Reply by the President .....	6
5207	Introduction & 1 <sup>st</sup> Reading .....	3	<b>WASHINGTON STATE LEGISLATURE</b>		
5208	Introduction & 1 <sup>st</sup> Reading .....	3		State of the Judiciary.....	7
5209	Introduction & 1 <sup>st</sup> Reading .....	3	<b>WASHINGTON STATE SENATE</b>		
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