

SECOND DAY, JANUARY 11, 2011

2011 REGULAR SESSION

**SECOND DAY****MORNING SESSION**

Senate Chamber, Olympia, Tuesday, January 11, 2011

The Senate was called to order at 11:15 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Delvin, Morton, Stevens, Swecker and Zarelli.

**MOTION**

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

**MOTION**

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

**INTRODUCTION AND FIRST READING**

**SB 5037** by Senators Keiser, Pflug, Kohl-Welles and Shin

AN ACT Relating to creating the Washington state board of naturopathy; amending RCW 18.36A.020, 18.36A.030, 18.36A.060, 18.36A.080, 18.36A.090, 18.36A.100, 18.36A.110, and 18.36A.120; reenacting and amending RCW 18.130.040; adding new sections to chapter 18.36A RCW; and repealing RCW 18.36A.070.

Referred to Committee on Health & Long-Term Care.

**SB 5038** by Senators Haugen, Ranker, Swecker, Stevens and Honeyford

AN ACT Relating to vehicle and vessel quick title; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.68 RCW; adding new sections to chapter 88.02 RCW; creating a new section; and providing an effective date.

Referred to Committee on Transportation.

**SB 5039** by Senators Murray, Keiser, Hatfield, Pridmore, Conway and Chase

AN ACT Relating to insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law; adding new sections to chapter 48.43 RCW; creating a new section; and providing a contingent expiration date.

Referred to Committee on Health & Long-Term Care.

**SB 5040** by Senator Swecker

AN ACT Relating to the personal use of state-provided electronic devices; and amending RCW 42.52.160.

Referred to Committee on Government Operations, Tribal Relations & Elections.

**SB 5041** by Senator Keiser

AN ACT Relating to the direct care and financing allowance component rate allocations for medicaid nursing facilities; and amending RCW 74.46.437, 74.46.485, and 74.46.501.

Referred to Committee on Ways & Means.

**SB 5042** by Senators Keiser, Pflug, Chase, Kohl-Welles, Conway, Roach, Shin and McAuliffe

AN ACT Relating to protection of vulnerable adults; amending RCW 74.34.020, 74.34.063, and 74.34.067; and repealing RCW 74.34.021.

Referred to Committee on Health & Long-Term Care.

**SB 5043** by Senators Stevens, Regala, Roach and McAuliffe

AN ACT Relating to child fatality review in child welfare cases; amending RCW 74.13.640; and reenacting and amending RCW 68.50.105.

Referred to Committee on Human Services & Corrections.

**MOTION**

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5041 which was referred to the Committee on Ways & Means.

**MOTION**

At 11:30 a.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of Joint Session to receive the State of the State Address by Governor Gregoire.

**JOINT SESSION**

The Speaker (Representative Moeller presiding) called upon the President of the Senate to preside.

The President called the Joint Session to order. The clerk called the roll of House members. The Clerk called the roll of Senate members. A quorum of the Legislature was present.

President Owen: "The purpose of the Joint Session is to receive the state of the state message from Her Excellency, Governor Christine Gregoire."

The President appointed a special committee to escort the Supreme Court Justices to the House Chamber; Representatives Tharinger and Overstreet and Senators Harper and Fain.

The President appointed a special committee to escort the Statewide elected officials to the House Chamber; Representatives Orwall and Wilcox; Senators Litzow and White.

The President appointed a special committee to advise her Excellency, Governor Christine Gregoire, that the joint session had assembled and to escort her to the House Chamber;

Representatives Dahlquist and Kenney; Senators Chase and Ericksen.

The Supreme Court Justices arrived, were escorted to the floor of the House Chamber and were introduced: Chief Justice Barbara Madsen, Justice Charles Johnson, Justice Gerry Alexander, Justice Tom Chambers, Justice Susan Owens, Justice Mary Fairhurst, Justice James Johnson, Justice Debra Stephens and Justice Charles Wiggins.

The Statewide elected officials arrived, were escorted to the floor of the House and were introduced: Secretary of State Sam Reed, State Auditor Brian Sonntag, Superintendent of Public Instruction Randy Dorn, Insurance Commissioner Mike Kreidler and Commissioner of Public Lands Peter Goldmark.

The President introduced the special guests of the Governor present in the Chambers: Mary Gregoire, Mother-in-Law, Dennis Gregoire and Barb Tennis, Brother and Sister in Law, Mike Tribble, Nephew, Drs. Phil and Susan Lindsey, daughter Courtney's in laws.

Former Governor Mike Lowry, Chair Maria Lopez from the Hoh Tribe, Hereditary Chair David Hudson from the Quileute Tribe, Chair Greg Abrahamson from the Spokane Tribe, Chair Mel Sheldon from the Tulalip Tribe, Chair Herman Dillon of the Puyallup Tribe, Council Member Charlotte Williams of the Muckleshoot Tribe and Council Member Maria Staff of the Muckleshoot Tribe.

The President introduced the members of the Consular Corps: Yury Gerasin, Dean of the Consular Corps, and Consul General of the Russian Federation; Helen Szablya, President, Consular Association of Washington, and Consul of Hungary; Ronald Masnik, Consul of Belgium; Pedro Augusto Costa, Consul of Brazil; Denis Stevens, Consul General of Canada; Jack Cowan, Consul of France; Petra Walker, Consul of Germany; John Keane, Consul of Ireland; Franco Tesorieri, Vice Consul of Italy; Kiyokazu Ota, Consul General of Japan; Haryong Lee, Consul General of the Republic of Korea; Stephen Zirschky, Consul of Latvia; Victor Lapatinskas, Consul of Lithuania; Alejandro Garcia Moreno, Consul of Mexico; Kim Nesselquist, Consul of Norway; Migueal Angel Velasques, Consul of Peru; Gary Furlong, Consul General of Uzbekistan, and Daniel Liao, Director General, Taipei Economic and Cultural Office.

Governor Christine Gregoire, her husband Mike Gregoire and her daughter Michelle Gregoire arrived, were escorted to the Rostrum and were introduced.

The flags were escorted to the rostrum by the Washington State Patrol Honor Guard. The National Anthem was performed by Kyra Smith. The President led the Chamber in the Pledge of Allegiance. The prayer was offered by Bill Robinson, President Emeritus of Whitworth University.

Bill Robinson: "In these chambers I'm sure that spontaneity is seldom a good thing but permit me to express deep appreciation to all of you, to you Governor, the 62<sup>nd</sup> Legislature, to all the public servants of this state for the work you do. I know I speak for the vast majority of Washingtonians and I know I speak for all the students in saying thank you. Please join me in prayer. Gracious God we pause at the start of this momentous occasion to offer thanksgiving and to invoke your blessing. First, we invoke your protection, keep safe our public servants and bring healing to Representative Giffords and all those in Arizona victimized by the tragic union of evil and lunacy. God help us. Now today we

thank you for our magnificent state, for its sweeping plains, its verdant coasts, granite backbone, metallic veins and for its good, compassionate people. We are favored to call the State of Washington home. Our home, o Lord is troubled. Wounds to our economy threaten our most vulnerable citizens. Across the state escalating needs beg for diminishing resources. Grant this 62<sup>nd</sup> Legislature wisdom and courage as they confront the agonizing decisions they must make. Prevent us, the electorate from shirking our human responsibility to join our government in meeting this challenge. Often we have demanded the privileges of our citizenship. Today our governor calls us to the duties of our citizenship. Awaken us to the necessity of this call. Strengthen Governor Gregoire as she leads us in this call, protect her and this legislature as they rise to this call and give us no rest until we have answered this call. O God bless our state and bless all of its sons and daughters. I offer this prayer as a Christian but on behalf of those who worship you in synagogues, mosques, temples and the sanctuary of your creation, Amen."

The President introduced Governor Christine Gregoire.

#### REMARKS BY GOVERNOR GREGOIRE

Governor Gregoire: "Before I begin my prepared remarks and the business of our state, over the weekend our nation witnessed a terrible tragedy, the loss of lives and devastated injuries to some folks in Arizona. I would ask each of you and everyone in the state of Washington to join me in a moment of silence."

#### MOMENT OF SILENCE

The Washington State Legislature in Joint Session observed a moment of silence in memory of United States Representative Gabrielle Giffords and eighteen other people who were shot, six of them fatally, during an open meeting near Tucson, Arizona on January 8, 2011.

#### STATE OF THE STATE

Governor Gregoire: "Thank you, Bill Robinson. You know, I've been a friend of yours for a long time and admire your kind and guiding words are appreciated. Thank you.

Thank you, Kyra, I met you at ten years of age and Wow is all I got to say. Your performance of the national anthem, your voice your talent are truly inspiring. Thank you very, very much for being here and what you've done for us.

And in a few minutes you are going to hear from a young man by the name of Clarke Hallum, a very talented 11-year-old from Olympia. Get ready. Thanks to each of you all for joining us her today.

Mr. President, Mr. Speaker, Madam Chief Justice, justices of the court, former Governor Mike Lowry, honored officials, members of our Washington State Legislature, tribal leaders, local government officials, members of the Consular Association of Washington, my fellow citizens:

First of all — here's to being the home of the 2010 WNBA champs — the Seattle Storm!

Alright, how about those University of Washington Huskies! Big time underdogs, they came back, they won.

And last Friday night here's to the Eastern Washington University Eagles, they trailed at half time 19-0 and they came back and won it 20-19. One of the most exciting games I've ever watched.

Alright, how about those Seahawks — look out Chicago, here we come, even when those athletes by the way were down those

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teams believed in themselves, they came back to win so never doubt our players in Washington State. Never doubt Washington State.

Harry Truman said if you want a friend in Washington, get a dog.

Well here in this Washington I have First Dog Trooper — but more importantly, I have two of four of my closest friends joining me today— my husband Mike and our daughter, Michelle. Our other daughter, Courtney, and son-in-law, Scott, could not join us but are diffidently here in spirit.

First Mike as you know is a first combat veteran and I'm proud of all the work that Mike does for our state on behalf of our veterans. It's especially important for those from earlier eras, but it's also important for those now returning from conflicts abroad. Mike does a great job, thank you Mike.

Brad introduced but I am proud to say Mikes mom, my mother-in-law is here today, she's a retired school teacher, she wouldn't want me to say this but we are going to celebrate her ninetieth birthday in June. She's brought with her family.

This summer Mike and I were fortunate, we joined Michelle, Courtney and Scott on a climb to Mt. Rainier. While the young ones charged right to the top, Mike and I are pretty pleased to report that we made it to Camp Muir — and then we quickly got the heck out of there!

But our hearts were with the kids as they unfurled the state flag on a snowy summit. From our perch at Camp Muir, I was struck by the absolute incredible view and reminded of the incredible riches of Washington State. I'm always proud to be a Washingtonian — but I was especially proud that day.

“Welcome members of the 62nd Washington State Legislature.

In particular, welcome to the 25 new members who are attending their first session.

You join a group who stands with long traditions of public service and dedication. You will come to know the selflessness of not only those who serve this body, but the thousands in our state who protect, serve and educate our citizens.

Our National Guard, our military men and women, our law enforcement members, our firefighters, our teachers and our state employees — you are my role models: Service above self at the risk of tremendous sacrifice. Thank you all for what you do on behalf of the State of Washington.

In the months ahead, all of us will be severely tested.

While there are signs of economic recovery around us, state government's budget remains in a deep freeze, and with a revenue shortfall unprecedented in state history, you will have extraordinarily difficult budget choices.

The tough times we are going through will demand equally tough decisions from all of us. You will have choices that seem unfair and unjust.

You will have to make decisions that will make life harder for the people back home.

And you will have to make decisions that may keep you awake at night, because in your heart, they just don't seem right.

I know this because I have had all those thoughts and I did so while drafting this budget that I have presented to you.

But just remember, our decisions aren't nearly as tough as those that are being made by too many of our friends and neighbors who have been forced out of work, out of their homes, out of food and out of hope.

This is not the first difficult time in our history, nor will it be the last.

Here's some perspective. On October 29, 1929, after eight years of unprecedented growth, the stock market took a nosedive. Sound familiar?

Just like this recession, the fallout hit Washington State later than other states, but with equally devastating impact on virtually every sector of the economy.

With incomes declining 44 percent by 1932 and unemployment soaring well above the national average of 25 percent, poverty became a way of life for many.

Even the most fortunate were shocked and saddened by the faces of poverty they saw all around them.

The most enduring symbols were shantytowns called Hoovervilles. In Seattle, 639 men and women lived just south of Pioneer Square in 479 makeshift shanties made from packing boxes.

In 1933, the Unemployed Citizens League marched on Olympia. Nearly 1,200 unemployed men and women from Seattle were met here by 800 police and vigilantes.

The protesters wanted the Legislature to assess higher taxes, end foreclosures and provide hot meals for their children. Sound familiar?

In 1935, Governor Clarence Martin signed a revenue act that was the most comprehensive tax overhaul in the state's history.

After what was described as a “stormy” session, the bold reform passed and that reform has lasted for the last past 80 years.

I have no doubt that some, possibly many, at that time questioned our economic future.

Yet five companies survived the Depression and emerged as strong, international, Fortune 500 companies today.

In 1933, Boeing introduced the Boeing 247 — the first truly modern airliner, and today, amid another devastating economic downturn, it is introducing the 787.

Wallin & Nordstrom opened in 1901 as the shoe store, and on the eve of the Depression, held a grand opening to announce its new ownership and a name change to Nordstrom.

Weyerhaeuser began in 1900. Paccar began in 1905 and Safeco in 1923.

I remember the recession in the 1970s that crippled the region and prompted the billboard that read, “Will the last person leaving Seattle turn out the lights.”

The doomsayers writing us off didn't foresee a company called Microsoft, which was still four years away from being founded. Today they have nearly 89,000 employees and revenues of \$62 billion.

When the pessimists were wringing their hands in 1971, Starbucks had one but store — in Pike Place Market. Today the company has almost 17,000 stores in 50 countries.

These stories remind us that the people of Washington State are resilient.

We have been through tough times before, and we emerged stronger than ever.

Three years of discouraging news about employment and the economy may have dampened our outlook for the future. But nothing can dampen our resolve.

Let me be clear: Washington will rebound. We will come back stronger than ever and we will provide a brighter future for our children.

In America, back then as now, job prospects were dim, our optimism was shattered and people wondered if we would ever recover.

Well, I am here today to confidently predict that just like back then, those who think America is in decline have overstated our problems, underestimated our resiliency and misjudged our potential. We will show them.

So let us go into this recession not with our confidence shattered and our hope for the future dimmed.

Let us go into this recession with the clear knowledge that we have an opportunity, like those who lived through the Great

Depression, to be bold and help the people and businesses of Washington rebound and prosper.

As we do our work here, we can't forget the real work, the hard work, is being done back home.

Men and women are struggling to keep their jobs and house their families.

Businesses are worried about meeting payroll and keeping the doors open.

As they struggle, their view of government is pretty clear — they want government to stay focused on its core services, live within its means, and use every taxpayer's dollar efficiently and effectively.

So this year, this time, this session, amid the worst economic climate in eight decades, our challenge is to actually transform Washington State government.

I think each of you will find in the weeks ahead our budget crisis leaves us no other option.

It will take tough decisions but it will take wise decisions.

I've offered a path forward. Here it is:

1. We must create a stable, financially secure path for our future;

2. We must recognize government cannot do it all; and

3. We must transform government into a leaner, 21st century organization that is more effective and more efficient.

This session is not just about getting us through this crisis.

It's also about setting our state on a trajectory that ensures a strong financial foundation for our kids and our grandkids. This is a budget and agenda that build the platform for a better service and a better recovery in the years to come.

We need to use this economic crisis to get control of spending in two critical areas — pensions and health care costs.

In the past decade our health care costs has doubled to more than \$5 billion. In the next biennium alone our pension costs will double.

Every dollar that we spend on health care and pensions means we have one less dollar to educate our children.

I am proposing that we repeal a 1995 law which gave automatic benefit increases to retirees in the old PERS 1 and TRS 1 pension plans.

The pension law was well intended but it carries a staggering price tag and we simply cannot afford to continue it.

Pension reform will save \$2 billion over the next four years and over a \$11 billion during the next 25 years.

I am proposing we partner with the Center of Innovation at the U.S. Department of Health and Human Services to provide real health care reform in our state. As a state we should set a goal: Keep inflation at 4 percent over the next 10 years. We can save \$26 billion while increasing the quality of care.

We must get a grip on these two budget busters. Unless and until we do, we cannot invest like we must in the education of our children.

I have looked at every state program and asked if it can be provided by others, if users should pay for it or if there are better ways to deliver the service.

If the Legislature in 1935 — in the midst of the Great Depression — could enact landmark change that has lasted for 80 years, then we, today, can transform Washington State government to better serve our people for the next 80 years.

Now is the time to challenge the status quo. Why, for instance, do we assume all taxpayers should pay for programs that benefit a few?

Should a small business owner in Spokane pay the cost of processing a water right for a landowner in the Yakima Valley?

Should a Bellingham family with young kids help pay for the license of an adult family home in Vancouver?

And what about our great state parks system. Should those who use the parks pay for their operation and maintenance?

Let's adopt a user pays policy so that when only a few benefit from the service, they pay for it.

I've asked you the past two years to reduce the number of boards and commissions. This year I'm asking you to reduce the number of state agencies.

I have sent you proposals that would reduce the number of natural resource agencies from 11 to five, cut the number of state central service agencies from five to two, and merge a number of small agencies into a new Office of Civil Rights.

These consolidation proposals will reduce these agencies from 21 to nine, eliminate duplication in back-office costs, save more than \$20 million a biennium and make our state government work smarter and better.

We must do everything we can to stimulate the economy and put Washington State back to work.

I propose cutting the unemployment insurance and workers compensation pay by more than \$1 billion to help our businesses and our unemployed get back to work.

We need to provide retraining to our unemployed workers whose jobs no longer exist. And we need to get injured workers healthy and back to work as soon as possible.

I'm asking you to get a bill to my desk by February 8 so more than 65,000 small businesses can receive a 48 percent reduction in their unemployment insurance rates. Those savings can help small businesses invest, expand and stimulate our economy growth in every community across the state.

Jobs are the way out of the recession, especially in one of the hardest hit areas — the construction sector. Through the capital and transportation budgets and the Public Works Trust Fund, we can start shovel-ready projects, modernize our infrastructure and put almost 40,000 people to work. As the construction industry goes, so goes our state budget.

Education, the number one duty of the state, is the key to the jobs of tomorrow.

Today we have eight education agencies with 14 plans. They spend critical time and resources trying to coordinate and provide an education system built in silos.

I propose we enact legislation creating one agency — the Department of Education — focused solely on student education with one plan for a seamless system from pre-school to Ph.D.

Our students deserve it and our parents demand it.

With that focus we can start by making the 12th grade relevant and exciting.

Twelfth grade should be the launch year of a career. We can give our students a leg up in the competitive world of tomorrow by ensuring that their senior year on their way is guaranteed they can get certificated, get apprenticeship or college credits.

In 2009, those with a bachelor's degree had an unemployment rate of 4.6 percent, while those with a high school diploma were unemployed at the rate of 10.5 percent.

We need to encourage every student to "complete to compete"— complete an AA, bachelor's or advanced degree so they can compete for the jobs of tomorrow.

We need tuition flexibility at our colleges and universities to keep the doors of higher education open to all and to maintain a quality education in both good and bad times.

I will ask you to adopt the recommendations of the Higher Education Funding Task Force, which increases the number of graduates, require greater accountability from our colleges and universities, ensures stable funding, and establish a \$1 billion Washington Pledge Scholarship Program. Let's make these changes because.

Educating our students is their future; a world-class education system is our state's future.

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I will also asked if someone else can manage the work better. I urge you to join me in providing 21st century management models for our state ferry system and information technology in state government.

Our ferry system, the largest in the nation, is in financial crisis.

More than 11 years ago, one-fifth of operating funds and three-quarters of the system's capital funding were eliminated. Ever since then we've been bailing out the ferry system, and there is simply no place to bail from any longer. We've gone after savings and have cut administrative costs by more than 28 million dollars.

For communities that rely on our ferries as much as others rely on our highways — for those 23 million passengers each year — we must find a better way.

I'm asking you to create a regional ferry district run by an elected board of directors to manage our ferry system. Funding would come from a state subsidy, fares and regional taxing authority to pay for the service the region decides it wants and needs.

Now, you may not agree with my solution, but I will tell you one thing — we cannot leave here without a solution, those people deserve it.

Secondly, taxpayers spend \$1 billion each year for information technology that processes hundreds of thousands of transactions a week.

Like large businesses, we are in the process of consolidating and modernizing. And I'm proud to report that our new data center is ahead of schedule and under budget.

I'm asking that we create a charter agency which can contract services with the private sector, just like a public utility would, to ensure reliable service at the lowest possible cost. It saves \$30 million over four years.

I know change is hard, especially here in Olympia where too many have become deeply invested in the status quo.

That's why it's easier to hear why change won't work than why it will.

I think voters are out ahead in understanding the need for change.

Our voters sent us here to lead, to solve problems, to work together, to get things done and to be bold.

Families, businesses and nonprofits across this state have been forced to change just to survive. We must do the same. Like the boldness of the 1935 Legislature in the midst of the Great Depression, we can set a path for success in our state.

There are those who say we won't be courageous. There are those who say we can't provide real change.

Well this year, let's prove the cynics and the skeptics wrong. Let's be bold. Let's stand up for change. Let's put state government on a new path, a 21st century path.

I stand ready to help, I'm here to support you and I will work with you.

But make no mistake: I expect you to make the make changes that will benefit the state today and for the next 80 years.

Last month this Legislature came together and passed a supplemental budget in one day. It was the first lame duck session in history, and it demonstrated what we can do when we put politics aside and work together as Washingtonians.

That was a great start, but we have unfinished work on the supplemental budget, and that has to be our first order of business.

Let's finish what we started and let's finish it together.

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My friends, we are down, but we are not out by any means. We can take a page from those who lived during the Great Depression. Like them we accept the challenge. We are ready to do the hard work, we will make the tough decisions. We are hopeful. We will remain hopeful and optimistic. We will be bold and will lead us to a better tomorrow for the great State of Washington.

We are and we forever will be a great state. Make no mistake about it, to the six and half million Washingtonians. Our agricultural products from potatoes to cherries to wine are known for their high quality.

Our businesses, whether there a leading international company, a startup or a small local business, are the most innovative.

Our workers are the most skilled, educated and competitive. Our communities are compassionate. And we live in one of the most beautiful places in the world. No recession will take that away from us.

We are the proud people of the great State of Washington.

Thank you and God bless Washington State and all her people. And God bless America.

The President thanked the Governor for her remarks and introduced 11-year-old Clarke Hallum, a 6<sup>th</sup> grader at Washington Middle School of Olympia, who performed "God Bless America: accompanied on the piano by Mr. Troy Fisher.

The President asked the special committee to escort Governor Gregoire and her family from the House Chamber.

The President asked the special committee to escort the Statewide elected officials from the House Chamber.

The President asked the special committee to escort the Supreme Court Justices from the House Chamber.

#### MOTION

On motion of Representative Sullivan the Joint Session was dissolved.

The Speaker (Representative Moeller presiding) assumed the chair.

The Sergeant at Arms of the House and the Sergeant at Arms of the Senate escorted President of the Senate Owen, President Pro Tempore Margarita Prentice, Majority Caucus Chair Karen Fraser and Minority Whip Doug Ericksen and members of the Washington State Senate from the House Chamber.

#### AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Owen.

#### MOTION

At 1:01 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, January 12, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate



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