



STATE OF WISCONSIN

Senate Journal

Ninety–Fifth Regular Session

10:00 A.M.

TUESDAY, May 8, 2001

The Senate met.

The Senate was called to order by Senator Fred Risser.

The roll was called and the following Senators answered to their names:

Senators Baumgart, Breske, Burke, Chvala, Cowles, Darling, Decker, Ellis, Erpenbach, Farrow, S. Fitzgerald, George, Grobschmidt, Hansen, Harsdorf, Huelsman, Jauch, A. Lasee, Lazich, M. Meyer, Moen, Moore, Panzer, Plache, Risser, Robson, Roessler, Rosenzweig, Schultz, Shibilski, Welch, Wirch and Zien – 33.

Absent – None.

Absent with leave – None.

The Senate stood for the prayer which was offered by Reverend Lawrence Kirby of St Paul Missionary Church of Racine.

The Senate remained standing and Senator Cowles led the Senate in the pledge of allegiance to the flag of the United States of America.

INTRODUCTION AND REFERENCE OF RESOLUTIONS AND JOINT RESOLUTIONS

Read and referred:

Senate Joint Resolution 33

Relating to: the life and public service of Charles F. Smith III.

By Senator Decker; cosponsored by Representative Huber.

Considered as privileged and taken up.

Read.

Adopted by unanimous rising vote.

Senate Joint Resolution 34

Relating to: the life and public service of Richard B. Kuzminski.

By Senator Grobschmidt; cosponsored by Representatives Plale and Sinicki.

To committee on **Senate Organization**.

Senator Chvala, with unanimous consent, asked that **Senate Joint Resolution 34** be withdrawn from the committee on **Senate Organization** and taken up.

Senate Joint Resolution 34

Relating to: the life and public service of Richard B. Kuzminski.

Read.

Senator George, with unanimous consent, asked to be added as a coauthor of **Senate Joint Resolution 34**.

Adopted.

INTRODUCTION, FIRST READING AND REFERENCE OF BILLS

Read first time and referred:

Senate Bill 175

Relating to: appointment of students to the board of regents of the University of Wisconsin System.

By Senators Grobschmidt, M. Meyer, Hansen, Schultz, Roessler, Burke, Harsdorf and Darling; cosponsored by Representatives Kreibich, Lassa, Shilling, Rhoades, La Fave, Plale, Pocan, Ryba, Plouff, Cullen, J. Lehman, Townsend, Bock, Miller, Olsen, Balow, Berceau, Jeskewitz, Richards, Gronemus, Boyle, Krawczyk, Freese, Sykora, D. Meyer, Wasserman, Turner and Young.

To committee on **Universities, Housing, and Government Operations**.

Senate Bill 176

Relating to: the Wisconsin School for the Deaf and creating a deaf and hard-of-hearing education council.

By Senators Grobschmidt, Plache, Rosenzweig, Burke and Schultz; cosponsored by Representatives Olsen, Huber, Pocan, Plale, La Fave, Kestell, Wade, M. Lehman, Wood, Gunderson, Lippert, Sykora, Albers, J. Lehman, Townsend, Petrowski, Gronemus, Ott, Powers and McCormick.

To committee on **Education**.

REPORT OF COMMITTEES

The joint survey committee on **Tax Exemptions** reports and recommends:

Senate Bill 65

Relating to: a sales tax and use tax exemption on tangible personal property used in the business of farming.

This bill is good public policy if amended to incorporate the provisions of Assembly substitute amendment 1 to **2001 Assembly Bill 121** and Assembly amendment 1 to Assembly substitute amendment 1 to **2001 Assembly Bill 121**.

Referred to committee on **Universities, Housing, and Government Operations**.

Russell Decker
Senate Chairperson

PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Ethics Board**

May 8, 2001

The Honorable, The Senate:

The following lobbyists have been authorized to act on behalf of the organizations set opposite their names.

For more detailed information about these lobbyists and organizations and a complete list of organizations and people authorized to lobby the 2001 session of the legislature, visit the Ethics Board's web site at <http://ethics.state.wi.us/>

- Beil, Mickey **Dane County**
- Bloom, David M **Wisconsin State Fire Chiefs Association**
- Blumenfeld, Michael **United Cerebral Palsy of Wisconsin**
- Brozek, Michael **National Safety Council**
- Carey, Ray **Racine Area Manufacturers and Commerce**
- Christianson, Peter C **Wisconsin State Fire Chiefs Association**
- Dickert, John T **Racine Area Manufacturers and Commerce**
- Elias, Nathan **Metropolitan Milwaukee Association of Commerce**
- Emons, Brent **Iron Workers Local Union #8**
- Goss, Patrick **Metropolitan Milwaukee Association of Commerce**
- Linton, Barbara **National Safety Council**
- Matthews, John **Racine Area Manufacturers and Commerce**
- McDowell, Kelly **Wisconsin Veterinary Medical Association**
- Ramey, Melanie **Hospice Organization and Palliative Experts of Wisconsin (HOPE), The**
- Schreiber, Martin **Wisconsin Veterinary Medical Association**
- Widder, Theodore C **Allstate Insurance Company**

Also available from the Wisconsin Ethics Board are reports identifying the amount and value of time state agencies have spent to affect legislative action and reports of expenditures for lobbying activities filed by organizations that employ lobbyists.

Sincerely,
ROTH JUDD
Director

Senator Robson, with unanimous consent, asked that the Senate recess until 1:03 P.M.

10:22 A.M.

RECESS

1:03 P.M.

The Senate reconvened.
Senator Risser in the chair.

ADVICE AND CONSENT OF THE SENATE

Senator Chvala, with unanimous consent, asked that the appointment of DAHLBERG, PHILIP J., be laid on the table.

Senator Chvala, with unanimous consent, asked that the appointment of Margaret Farrow be placed at the foot of the calendar of May 8, 2001.

MESSAGES FROM THE ASSEMBLY

By John A. Scocos, chief clerk.

Mr. President:

I am directed to inform you that the Assembly has passed and asks concurrence in:

- Assembly Bill 196**
- Assembly Bill 222**

**MESSAGES FROM THE ASSEMBLY
CONSIDERED**

Assembly Bill 196

Relating to: the disclosure of public library records.

By Representatives Albers, Miller, Kestell, Grothman, Jeskewitz, Ott, Leibham, Powers, Hahn, Vrakas, Gronemus, Petrowski, Nass, Pettis, Krawczyk, Stone, Gundrum and Owens; cosponsored by Senators Roessler, S. Fitzgerald, Lazich, Farrow, A. Lasee and Schultz.

Read first time and referred to committee on **Privacy, Electronic Commerce and Financial Institutions.**

Assembly Bill 222

Relating to: changing the name of a minor.

By Representatives Foti, J. Lehman, McCormick, J. Fitzgerald, Huebsch, Hundertmark, Krawczyk, Kreuser, D. Meyer, Montgomery, Owens, Pettis, Stone, Sykora, Townsend, Wade and La Fave; cosponsored by Senators Wirch, Darling, Roessler, Rosenzweig and Schultz.

Read first time and referred to committee on **Judiciary, Consumer Affairs, and Campaign Finance Reform.**

Senate Joint Resolution 2

Relating to: the right to fish, hunt, trap, and take game (first consideration).

Read.

Senator Baumgart, with unanimous consent, asked that the staff memorandum on Assembly substitute amendment 1 to **Senate Joint Resolution 2** from the Joint Legislative Council be spread upon the Journal.

TO: SENATOR JAMES BAUMGART
FROM: Mark C. Patronsky, Senior Staff Attorney
RE: Constitutional Right to Fish, Hunt, Trap, and Take Game: Potential Judicial Interpretation
DATE: May 2, 2001

Introduction

This memorandum is in response to your request for my analysis of the potential effect of 2001 Senate Joint Resolution 2, as affected by Assembly Substitute Amendment 1, on the ability of the state to continue its regulation of fishing, hunting, trapping and taking game. The Joint Resolution, as amended, proposes to create Wis. Const. art. I, s. 26, as follows: "The people have the right to fish, hunt, trap, and take game subject only to reasonable restrictions as prescribed by law." This is the same language as contained in Senate Joint Resolution 2, as

introduced, and prior to the adoption of Senate Substitute Amendment 1.

You have observed that the constitutional amendment, if adopted, could be used as the basis for a legal challenge to the constitutionality of existing or future statutes or administrative rules that regulate fish and game. Your concern is the extent to which legal challenges to fish and game regulations could succeed. You have asked whether the Joint Resolution would support a challenge only to regulations that are substantially more restrictive than those now in force, or whether there is a potential for successful challenge to many of the ordinary, commonly accepted fish and game regulations that are currently in place.

It is impossible to give a definitive answer to your question, because the constitutional language is brief, and does not spell out the specific legal consequences of that language. Judicial interpretation may eventually supply the answer to your question, but the outcome of court cases is difficult to predict. However, courts frequently resort to a variety of methods to interpret constitutional provisions and a review of those methods can suggest the outcome of a challenge to hunting or fishing regulations based on the proposed right. I have reviewed a number of these methods of interpretation, and concluded that a successful challenge to hunting and fishing regulations would most likely relate to future regulations that are much more restrictive than those currently in place. I believe it is less likely that the regulations in place today could be successfully challenged, and I have summarized my conclusion in this memorandum. My conclusion also appears to be consistent with the intent of the supporters of the constitutional amendment – I am unaware of any public testimony or arguments in legislative debate on the constitutional amendment that indicate an intent that it should be a vehicle for overturning any current fish and game regulations.

Throughout this memorandum, for convenience, I will refer to “hunt and fish” as a description of all activities that are subject to the proposed constitutional right. For further information, you may wish to review Wisconsin Legislative Council Information Memorandum 00–7, *Laws on Hunting, Fishing and Trapping* (December 28, 2000).

Current Regulation of Fish and Game

This section of the memorandum briefly describes the broad grant of statutory authority for hunting and fishing regulation, as well as the great deference that courts currently give to such regulations. This discussion is included in the memorandum because it is these legal principles that are potentially subject to change as a result of adopting the Joint Resolution.

The legal title to all wild animals is declared to be in the state by s. 29.011, Stats.:

29.011 Title to wild animals. (1) The legal title to, and the custody and protection of, all wild animals within this state is vested in the state for the purposes of regulating the enjoyment, use, disposition, and conservation of these wild animals.

(2) The legal title to a wild animal or carcass, taken or reduced to possession in violation of this chapter, remains in the state. The title to a wild animal or carcass, lawfully acquired, is subject to the condition that upon the violation of this chapter relating to the possession, use, giving, sale, barter or transportation of a wild animal or carcass by the owner, the ownership shall revert, as a result of the violation, to the state.

In other words, legal title to wild game only passes to an individual when the game is legally taken. Until that time, title

remains with the state, and the state can confiscate any game unlawfully taken. This declaration of sovereignty is common to all 50 states and is the statutory expression of the legal principle that dates back to the early days of the English monarchy.

Although it is not so described in the statutes, the state’s title to wild animals is often described in court cases as a trust for the benefit of the people. The Legislature, as the representative of the people, is charged with the authority to manage this trust. The Legislature has delegated the administrative responsibilities regarding wild animals primarily to the Department of Natural Resources (DNR). Most of the statutory authority of the DNR with respect to wild animals is contained in ch. 29, Stats., and DNR has implemented its authority by adopting extensive administrative rules.

The basic authority of the DNR to regulate fish and game is set forth in s. 29.014 (1), Stats., which provides as follows:

29.014 (1) The department shall establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping.

There are very few appellate court cases in Wisconsin regarding fish and game regulation. However, the Wisconsin case of *Krenz v. Nichols*, decided in 1928, is typical of the state court’s approach to fish and game cases. In this case, the Wisconsin Supreme Court reviewed the state’s regulation of muskrat farms. In its decision in favor of the state, the court gave great deference to the Legislature in its regulation of fish and game.

As trustee for the people, the state may conserve wild life and regulate or prohibit its taking in any reasonable way it may deem necessary for the public welfare, so long as it does not violate any organic law of the land.

...

It is now generally recognized that valuable wild animal life would soon be exterminated if the state should fail to conserve it and aid in its reproduction. Whenever the state has done so without trenching on private rights protected by the Constitution, such acts have been almost uniformly upheld.

...

Nearly every conceivable regulation for the propagation, conservation, taking, and disposal of fish and game has been upheld where no constitutional objections have stood in the way. Generally, courts have given very liberal construction to such statutes, to the end that the public welfare should be subserved. [222 N.W. 300, 303, 197 Wis. 394 (1928).]

Constitutional Interpretation

Like statutes, constitutions are subject to judicial interpretation. Some of the tools used by courts in constitutional cases are known as “rules of interpretation.” These rules are similar to the rules for statutory interpretation, but have other dimensions due to the constitutional context.

It is important to note that these are not “rules ” in the conventional sense of that word. This is rather a term that lawyers use loosely to describe what could more accurately be described as an approach to analyzing the constitutional issue. Courts are not bound to follow these rules, although these rules are commonly applied in court decisions.

The express purpose of these rules of interpretation is to allow courts to implement the will of the drafters of a constitutional provision and the will of the voters who ratified it. To the extent

that a court interprets a constitutional provision, it may choose not to follow the literal meaning of that provision. The flexibility that courts have when applying the rules of interpretation potentially puts legislators and electors in the position of voting for a constitutional amendment when it cannot be known how courts might ultimately decide a case arising under the proposed amendment.

The following are some examples of constitutional rules of interpretation:

Unless a provision is ambiguous, the plain meaning prevails. If there is no ambiguity, the court may choose not to consider any evidence outside of the constitutional language at issue. Senate Joint Resolution 2 does not appear to be ambiguous, in the sense that it can be read in two different ways. However, the Joint Resolution is vague in the sense that it does not precisely define the scope of the right. This may lead a court to claim that it is ambiguous (because ambiguity and vagueness are frequently mixed), and resort thereafter to other evidence of meaning.

Avoid absurd results. The issue of absurd results often arises when fact situations are presented to the court that were not envisioned by the drafters, or when there is a conflict between constitutional provisions.

Extrinsic evidence related to adoption. Courts may review the legislative history surrounding adoption of a constitutional provision to determine what was intended by the Legislature.

Extrinsic evidence related to legislation on the same subject. Courts may look to legislation interpreting constitutional provisions or to legislation that is adopted contemporaneous to the constitutional provision to determine intent.

Comments on 2001 Senate Joint Resolution 2

The following are some observations regarding potential judicial interpretation of Senate Joint Resolution 2, as amended. These observations are expressed in terms of how the text of the Joint Resolution or certain evidence related to the Joint Resolution might influence the decision of a court. I have not assumed that a court might make an unexpected or unusual decision, although this is always a possibility.

Plain meaning of the Joint Resolution. The Joint Resolution clearly does not create an absolute right to hunt and fish. The “right to fish, hunt, trap and take game” is qualified in the Joint Resolution by the language that follows: “subject only to reasonable restrictions as prescribed by law.” Although the Joint Resolution creates a right, at the same time it authorizes the Legislature and its agent, the DNR, to regulate that right. Therefore, the language in the Joint Resolution clearly acknowledges that regulation of hunting, fishing, trapping and taking game will continue.

Absurd results. Courts typically refer to rights created in the constitution as “fundamental rights.” Fundamental constitutional rights are those that have an essential value to individual liberty in our society. When a court determines that a particular constitutional right meets this description, the court will often apply one of the higher standards of judicial review. Restrictions on many of the fundamental constitutional rights are subject to strict scrutiny, wherein the court will not apply a presumption of constitutionality to the legislation. The state, to defend the regulation, must show that the regulation is intended to achieve a compelling governmental interest and the regulation is narrowly tailored to serve that interest. This would

make it very difficult for the state to defend most fish and game regulation. However, the Joint Resolution allows reasonable restrictions. It could be considered an absurd result for a court to acknowledge that regulation of the right is permissible, but to make it extremely difficult for the state to regulate.

A more balanced approach, that harmonizes both the right and the regulation under the Joint Resolution, would be for the court to choose the intermediate standard of review. Regulations subject to the intermediate standard of review are given a presumption of constitutionality. Regulations must serve “significant” governmental interests, as contrasted with “compelling” governmental interests under the strict scrutiny standard. Regulations must be narrowly tailored, but not necessarily the least restrictive, and must leave open ample opportunities for citizens to exercise the right. Furthermore, even though a constitutional right is a fundamental right, courts recognize that not all burdens on fundamental rights bear heightened scrutiny. Some burdens may be sufficiently minor that they may be reviewed under the rational basis standard.

Additional absurd results. As noted in Krenz, the ongoing availability of wild animals to hunt and fish depends on state regulation to conserve the fish and game. It could be considered an absurd result if the Joint Resolution could be used to negate a substantial amount of hunting and fishing regulation, if the result was to restrict game management authority and thus destroy the very activity that the Joint Resolution was intended to protect.

“Reasonable restrictions” are authorized. This choice of language is important. Such restrictions could include the conservation of wild animals, as well as any other issues of public health, safety or welfare. This language should allow courts to approve regulations that respond to broader social issues, as well as conservation and game management. Social regulations are common in current fish and game regulations. For example, the nine-day deer gun season has no basis in deer herd management, but rather is based on tradition and public preference—a “social” regulation. Similarly, trophy size limits respond to angler preference rather than to fish management.

Judicial precedent. Courts strongly tend to follow precedent in constitutional cases. The adherence to precedent increases the certainty that is provided by law. The Krenz case, cited above, is part of the Wisconsin precedent in fish and game law. This precedent suggests that courts are likely to make only modest changes to the standards for review of fish and game regulation, in that a substantial degree of judicial deference continues to be consistent with Senate Joint Resolution 2, as amended.

Legislative history. I am unaware of any legislative history suggesting that the Joint Resolution is intended to restrict or negate any of the current fish and game regulations.

Contemporaneous legislation. Senate Bill 45 and Assembly Bill 190 would prohibit the hunting of mourning doves. The outcome of legislative debate on these bills may suggest in part what is the Legislature’s intent regarding the constitutional amendment. With the exception of these two bills, the Legislature is not considering any other legislation that would curtail any current hunting or fishing opportunities.

If I can provide further information on this subject, please feel free to contact me.

The question was: Shall Assembly substitute amendment 1 to **Senate Joint Resolution 2** be concurred in?

The ayes and noes were demanded and the vote was: ayes, 32; noes, 1; absent or not voting, 0; as follows:

Ayes – Senators Baumgart, Breske, Burke, Chvala, Cowles, Darling, Decker, Ellis, Erpenbach, Farrow, S. Fitzgerald, George, Grobschmidt, Hansen, Harsdorf, Huelsman, Jauch, A. Lasee, Lazich, M. Meyer, Moen, Moore, Panzer, Plache, Robson, Roessler, Rosenzweig, Schultz, Shibilski, Welch, Wirch and Zien – 32.

Noes – Senator Risser – 1.

Absent or not voting – None.

Concurred in.

SECOND READING AND AMENDMENTS OF SENATE JOINT RESOLUTIONS AND SENATE BILLS

Senate Bill 5

Relating to: reimbursement of emergency response teams and granting rule-making authority.

Read a second time.

The question was: Adoption of Senate amendment 1 to **Senate Bill 5**?

Adopted.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

Senate Bill 5

Read a third time and passed.

Senate Bill 9

Relating to: revising the Uniform Commercial Code Secured Transactions and related statutes and granting rule-making authority.

Read a second time.

The question was: Adoption of Senate substitute amendment 1 to **Senate Bill 9**?

Adopted.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

Senate Bill 9

Read a third time.

The ayes and noes were required and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes – Senators Baumgart, Breske, Burke, Chvala, Cowles, Darling, Decker, Ellis, Erpenbach, Farrow, S. Fitzgerald, George, Grobschmidt, Hansen, Harsdorf, Huelsman, Jauch, A. Lasee, Lazich, M. Meyer, Moen, Moore, Panzer, Plache, Risser, Robson, Roessler, Rosenzweig, Schultz, Shibilski, Welch, Wirch and Zien – 33.

Noes – None.

Absent or not voting – None.

Passed.

Senate Bill 97

Relating to: issuance of bonus deer hunting permits to certain farm owners who are engaged in the production of maple syrup.

Read a second time.

Senator Burke, with unanimous consent, asked that **Senate Bill 97** be referred to the Joint Committee on **Finance**.

Senator Burke, with unanimous consent, asked that the rules be suspended and that **Senate Bill 97** be withdrawn from the Joint Committee on **Finance** and taken up at this time.

Read a second time.

The question was: Adoption of Senate amendment 1 to **Senate Bill 97**?

Adopted.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

Senate Bill 97

Read a third time and passed.

Senate Bill 102

Relating to: the prohibition against underage persons entering or being on any premises operating under an alcohol beverage license.

Read a second time.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

Senate Bill 102

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 23; noes, 10; absent or not voting, 0; as follows:

Ayes – Senators Baumgart, Breske, Burke, Chvala, Darling, Decker, Erpenbach, S. Fitzgerald, George, Grobschmidt, Hansen, Jauch, M. Meyer, Moen, Moore, Plache, Risser, Robson, Schultz, Shibilski, Welch, Wirch and Zien – 23.

Noes – Senators Cowles, Ellis, Farrow, Harsdorf, Huelsman, A. Lasee, Lazich, Panzer, Roessler and Rosenzweig – 10.

Absent or not voting – None.

Passed.

Senate Bill 110

Relating to: polling hours, time off from work for service as an election official, training of election officials, voting by felons and immigrants, requiring studies and recommendations with regard to voter registration and multilingual voting needs, establishing satellite stations for purposes of conducting voter registration and absentee voting, and granting rule-making authority.

Read a second time.

Senator Chvala, with unanimous consent, asked that **Senate Bill 110** be placed after **Assembly Bill 321** on the calendar of May 8, 2001.

Senate Bill 116

Relating to: notification to the legislature of a proposed rule.

Read a second time.

Ordered to a third reading.

Senator Moen, with unanimous consent, asked that the bill be considered for final action at this time.

Senate Bill 116

Read a third time and passed.

**SECOND READING AND AMENDMENTS
OF ASSEMBLY JOINT RESOLUTIONS AND
ASSEMBLY BILLS**

Assembly Bill 98

Relating to: fishing with a bow and arrow near a roadway.

Read a second time.

Senator Baumgart, with unanimous consent, asked to be added as a cosponsor of **Assembly Bill 98**.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

Assembly Bill 98

Read a third time and concurred in.

Assembly Bill 321

Relating to: the college tuition and expenses program and the college savings program, providing an exemption from emergency rule procedures, and making appropriations.

Read a second time.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

Assembly Bill 321

Read a third time.

The ayes and noes were required and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes – Senators Baumgart, Breske, Burke, Chvala, Cowles, Darling, Decker, Ellis, Erpenbach, Farrow, S. Fitzgerald, George, Grobschmidt, Hansen, Harsdorf, Huelsman, Jauch, A. Lasee, Lazich, M. Meyer, Moen, Moore, Panzer, Plache, Risser, Robson, Roessler, Rosenzweig, Schultz, Shibilski, Welch, Wirch and Zien – 33.

Noes – None.

Absent or not voting – None.

Concurred in.

Senate Bill 110

Relating to: polling hours, time off from work for service as an election official, training of election officials, voting by felons and immigrants, requiring studies and recommendations with regard to voter registration and multilingual voting needs, establishing satellite stations for purposes of conducting voter registration and absentee voting, and granting rule-making authority.

Read a second time.

The question was: Adoption of Senate amendment 1 to **Senate Bill 110**?

Adopted.

Senate amendment 2 to **Senate Bill 110** offered by Senators Farrow, Roessler, Darling, Lazich, Harsdorf, Rosenzweig, Huelsman, Panzer and Zien.

POINT OF ORDER

Senator Chvala raised the point of order that Senate amendment 2 was not germane.

The Chair rules the point well taken.

Senate amendment 3 to **Senate Bill 110** offered by Senators Huelsman, Rosenzweig, Lazich, Darling, Farrow, Zien and Panzer.

Senator Moore moved rejection of Senate amendment 3 to **Senate Bill 110**.

The question was: Rejection of Senate amendment 3 to **Senate Bill 110**?

The ayes and noes were demanded and the vote was: ayes, 18; noes, 15; absent or not voting, 0; as follows:

Ayes – Senators Baumgart, Breske, Burke, Chvala, Decker, Erpenbach, George, Grobschmidt, Hansen, Jauch, M. Meyer, Moen, Moore, Plache, Risser, Robson, Shibilski and Wirch – 18.

Noes – Senators Cowles, Darling, Ellis, Farrow, S. Fitzgerald, Harsdorf, Huelsman, A. Lasee, Lazich, Panzer, Roessler, Rosenzweig, Schultz, Welch and Zien – 15.

Absent or not voting – None.

Rejected.

Senate amendment 4 to **Senate Bill 110** offered by Senator Decker.

Senate amendment 1 to Senate amendment 4 to **Senate Bill 110** offered by Senator Chvala.

The question was: Adoption of Senate amendment 1 to Senate amendment 4 to **Senate Bill 110**?

Adoption refused.

Senator Ellis, with unanimous consent, asked that the Senate recess until 2:58 P.M.

2:30 P.M.

RECESS

2:58 P.M.

The Senate reconvened.

Senator Risser in the chair.

Senate amendment 2 to Senate amendment 4 to **Senate Bill 110** offered by Senator Chvala.

The question was: Adoption of Senate amendment 2 to Senate amendment 4 to **Senate Bill 110**?

Adopted.

The question was: Adoption of Senate amendment 4 to **Senate Bill 110**?

Adopted.

Senate amendment 5 to **Senate Bill 110** offered by Senator George.

The question was: Adoption of Senate amendment 5 to **Senate Bill 110**?

Adopted.

Ordered to a third reading.

Senator Moen, with unanimous consent, asked that the bill be considered for final action at this time.

Senate Bill 110

Read a third time.

The ayes and noes were required and the vote was: ayes, 18; noes, 15; absent or not voting, 0; as follows:

Ayes – Senators Baumgart, Breske, Burke, Chvala, Decker, Erpenbach, George, Grobschmidt, Hansen, Jauch, M. Meyer, Moen, Moore, Plache, Risser, Robson, Shibilski and Wirch – 18.

Noes – Senators Cowles, Darling, Ellis, Farrow, S. Fitzgerald, Harsdorf, Huelsman, A. Lasee, Lazich, Panzer, Roessler, Rosenzweig, Schultz, Welch and Zien – 15.

Absent or not voting – None.

Passed.

Senator Chvala, with unanimous consent, asked that all action be immediately messaged to the Assembly.

FARROW, MARGARET A., of Pewaukee, as Lieutenant Governor, pursuant to Article XIII, section 10 (2) of the Wisconsin Constitution.

Read.

Senator Farrow, with unanimous consent, asked that she be excused from the vote on her confirmation pursuant to Senate Rule 73(1).

The question was: Confirmation?

The ayes and noes were required and the vote was: ayes, 30; noes, 2; absent or not voting, 1; as follows:

Ayes – Senators Baumgart, Breske, Burke, Cowles, Darling, Decker, Ellis, Erpenbach, S. Fitzgerald, George, Grobschmidt, Hansen, Harsdorf, Huelsman, Jauch, A. Lasee, Lazich, M. Meyer, Moen, Panzer, Plache, Risser, Robson, Roessler, Rosenzweig, Schultz, Shibilski, Welch, Wirch and Zien – 30.

Noes – Senators Chvala and Moore – 2.

Absent or not voting – Senator Farrow – 1.

Confirmed.

MOTIONS MAY BE OFFERED

Senator Panzer moved that **Senate Bill 100** be with drawn from the joint survey committee on Tax Exemptions and taken up.

Senator Schultz, with unanimous consent, asked to be withdrawn as a coauthor of **Senate Bill 40**.

Senator Robson, with unanimous consent, asked to be added as a coauthor of **Senate Bill 175**.

Senator Robson, with unanimous consent, asked to be added as a coauthor of **Senate Bill 176**.

ANNOUNCEMENTS, ADJOURNMENT HONORS, AND REMARKS UNDER SPECIAL PRIVILEGE

Senator Panzer, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Senator Margaret Farrow on the occasion of her confirmation as Lieutenant Governor.

Senator Robson, with unanimous consent, asked that when the Senate adjourn, it do so in honor of all nurses in the state during this National Nurses Week.

Senator Burke, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Senator Moen and his wife's 42nd wedding anniversary.

Senator Darling, with unanimous consent, asked that when the Senate adjourn, it do so in honor of her father Albert Statkus who is having heart surgery today.

Senator Grobschmidt, with unanimous consent, asked that when the Senate adjourn, it do so in honor of his brother in law Ron Troyon for his first place in the district shot-putt and his participation in the State Special Olympics.

Senator Schultz, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Sauk Prairie Memorial Hospital and Clinics which was recently honored as a 2000 national award winner of the *100 Top Hospitals: Benchmarks for Success* study by HCIA-Sachs Institute by achieving clinical, financial and operational excellence.

ADJOURNMENT

Senator Chvala, with unanimous consent, asked that the Senate adjourn until Thursday, May 10 at 10:00 A.M.

Adjourned.

4:05 p.m.