



STATE OF WISCONSIN

Assembly Journal

Ninety-Seventh Regular Session

11:10 A.M.

TUESDAY, January 25, 2005

The Assembly met in the Assembly Chamber located in the State Capitol.

Speaker Gard in the chair.

The prayer was offered by former Representative Wayne Wood.

Representative Hahn led the membership in reciting the pledge of allegiance to the flag of the United States of America.

The roll was taken.

The result follows:

Present – Representatives Ainsworth, Albers, Ballweg, Benedict, Berceau, Bies, Black, Boyle, Colon, Cullen, Davis, Fields, J. Fitzgerald, Freese, Friske, Gielow, Gottlieb, Grigsby, Gunderson, Gundrum, Hahn, Hebl, Hines, Honadel, Hubler, Huebsch, Hundertmark, Jensen, Jeskewitz, Kaufert, Kerkman, Kessler, Kestell, Kleefisch, Krawczyk, Kreibich, Kreuser, Krusick, Lamb, F. Lasee, Lehman, LeMahieu, Loeffelholz, Lothian, McCormick, Meyer, Molepske, Montgomery, Moulton, Mursau, Musser, Nass, Nelson, Nerison, Nischke, Ott, Owens, Parisi, Petrowski, Pettis, Pocab, Pope–Roberts, Pridemore, Rhoades, Richards, Schneider, Seidel, Sheridan, Sherman, Shilling, Sinicki, Staskunas, Steinbrink, Stone, Strachota, Suder, Toles, Towns, Townsend, Travis, Turner, Underheim, Van Akkeren, Van Roy, Vos, Vrakas, Vruwink, Vukmir, Ward, Wasserman, Wieckert, Wood, Young, Zepnick, Ziegelbauer and Speaker Gard – 96.

Absent with leave – Representatives Gronemus, A. Williams and M. Williams – 3.

Vacancies – None.

LEAVES OF ABSENCE

Representative Vrakas asked unanimous consent for a leave of absence for today's session for Representative M. Williams. Granted.

Representative Turner asked unanimous consent for a leave of absence for today's session for Representatives Gronemus and A. Williams. Granted.

INTRODUCTION AND REFERENCE OF PROPOSALS

Read first time and referred:

Assembly Resolution 3

Relating to: attendance at national conferences.

By Representative Schneider.

To committee on **Rules**.

Assembly Joint Resolution 5

Relating to: the life and public service of Alex C. Ruffing.

By Representative Kessler.

To committee on **Rules**.

Assembly Joint Resolution 6

Relating to: the life of Marine Corps Private First Class Brent Vroman.

By Representative Owens; cosponsored by Senator Roessler.

To committee on **Rules**.

Assembly Joint Resolution 7

Relating to: appointment of temporary acting senators and representatives to the assembly for legislators performing ordered military duty (first consideration).

By Representative Schneider; cosponsored by Senator Carpenter.

To committee on **Campaigns and Elections**.

Assembly Bill 30

Relating to: commitment of sexually violent persons and sexual assault of a child who is less than 13 years old and providing a penalty.

By Representative Kessler.

To committee on **Criminal Justice and Homeland Security**.

Assembly Bill 31

Relating to: allowing an individual income tax deduction for certain amounts contributed to any section 529 college tuition program.

By Representatives Nass, Kreibich, Gunderson, Gundrum, Lothian, Hahn, Hundertmark, LeMahieu, F. Lasee, Wood, Rhoades, Strachota, Jeskewitz, Musser, Jensen, Albers, Van Roy, Fields, Nischke, Freese, Townsend, Hubler, Vrakas, Towns, Suder, Vos, Hines, Honadel, Gronemus, Sinicki, Pettis and Zepnick; cosponsored by Senators Kedzie,

Roessler, A. Lasee, Grothman, Harsdorf, Lassa, Miller, Lazich and Stepp.

To committee on **Colleges and Universities**.

To joint survey committee on **Tax Exemptions**.

Assembly Bill 32

Relating to: the requirements for examinations for nursing home administrator licenses and for reciprocal nursing home administrator licenses, creating an exemption from such requirements, and granting rule-making authority.

By Representatives Wasserman, Townsend, Hines, Berceau, Gielow, Grigsby, Lehman and Ott; cosponsored by Senator Carpenter.

To committee on **Aging and Long-Term Care**.

Assembly Bill 33

Relating to: an exception to confidentiality requirements for treatment records.

By Representatives Wasserman, Gielow, Petrowski, Ainsworth, Hines, Berceau, Grigsby, Hahn, Jeskewitz, Kaufert, F. Lasee, Lehman, Lothian, Musser, Ott, Stone, Townsend, Vos and M. Williams; cosponsored by Senators Roessler, Lassa and Olsen.

To committee on **Health**.

Assembly Bill 34

Relating to: prohibiting the disposal in solid waste disposal facilities of dredged material that contains polychlorinated biphenyls.

By Representatives Owens, Kaufert, Ainsworth, Albers, Black, Hines, Kerkman and Underheim; cosponsored by Senators Erpenbach, Ellis and Roessler.

To committee on **Natural Resources**.

Assembly Bill 35

Relating to: the qualifications of newspapers permitted to publish legal notices and allowing mailing and Internet posting of legal notices instead of publishing.

By Representatives Jeskewitz, Loeffelholz, Kerkman, Lothian, Hines, Vos and Stone; cosponsored by Senators Lazich, Stepp, Brown, Lassa and Roessler.

To committee on **Judiciary**.

Assembly Bill 36

Relating to: classification of jail prisoners for determining prisoner housing assignments, the type of prisoner supervision, and the delivery of services and programs to prisoners.

By Representatives Friske, Bies, Hines, Kerkman, Petrowski, Jeskewitz, Owens, Ballweg, Hundertmark, Musser, Albers, Gunderson, Hahn, Vrakas, Ott and Townsend; cosponsored by Senators Olsen, S. Fitzgerald and Lassa.

To committee on **Corrections and the Courts**.

Assembly Bill 37

Relating to: an exemption from the witness exclusion rule for a law enforcement investigator designated by the state in criminal and delinquency proceedings.

By Representatives Friske, Albers, Ballweg, Ott, Musser, Gunderson, Hahn, Stone, Townsend, Gronemus and Lehman; cosponsored by Senators Roessler and A. Lasee.

To committee on **Judiciary**.

Assembly Bill 38

Relating to: restriction violations by persons holding instruction permits or probationary licenses to operate motor vehicles and providing a penalty.

By Representatives Friske, Gard, Young, Petrowski, Staskunas, Ballweg, Wasserman, Kestell, Gronemus, Rhoades, Jeskewitz, Stone, Vos, Albers, Ott, Van Roy, Ainsworth, Musser, Gunderson, Hahn, Krawczyk, Ward, Hines and Townsend; cosponsored by Senators Olsen, Roessler, A. Lasee, Kedzie, Grothman, Stepp, Lassa, Jauch and Reynolds.

To committee on **Highway Safety**.

Assembly Bill 39

Relating to: regulating the manufactured housing industry and manufactured home installations; promoting rehabilitation and recycling of manufactured housing; requiring the exercise of rule-making authority; providing a penalty; and making appropriations.

By Representatives Nass, Vruwink, Vrakas, Kerkman, Montgomery, Kreibich, Suder, Vos, Ott, Hines, Hahn, Musser, Molepske, Nerison, Petrowski and Townsend; cosponsored by Senators Roessler, Lassa, Olsen, Brown, Kedzie, Wirch, Breske and Stepp.

To committee on **Housing**.

Assembly Bill 40

Relating to: forfeiture of money derived from a drug crime.

By Representatives Bies, Albers, Fields, Gronemus, Gunderson, Gundrum, Hahn, Hines, Jeskewitz, Krawczyk, LeMahieu, Musser, Ott, Owens, Van Roy and Vos; cosponsored by Senators A. Lasee and Kedzie.

To committee on **Corrections and the Courts**.

Assembly Bill 41

Relating to: the Interstate Compact for Juveniles.

By Representatives Bies, Ainsworth, Gronemus, Krawczyk, F. Lasee, Lehman, Musser, Ott, Townsend and Van Roy; cosponsored by Senators Zien, A. Lasee and Lassa.

To committee on **Corrections and the Courts**.

COMMITTEE REPORTS

The committee on **Insurance** reports and recommends:

Assembly Bill 4

Relating to: creating a nonrefundable individual income tax credit for certain amounts relating to health savings accounts that may be deducted from, or are exempt from, federal income taxes.

Assembly Substitute Amendment 1 adoption:

Ayes: 9 – Representatives Nischke, Wieckert, Underheim, Montgomery, McCormick, Gielow, Van Roy, Ballweg and Moulton.

Noes: 6 – Representatives Cullen, Lehman, Staskunas, Berceau, Nelson and Sheridan.

Passage as amended:

Ayes: 9 – Representatives Nischke, Wieckert, Underheim, Montgomery, McCormick, Gielow, Van Roy, Ballweg and Moulton.

Noes: 6 – Representatives Cullen, Lehman, Staskunas, Berceau, Nelson and Sheridan.

To committee on **Rules**.

ANN NISCHKE
Chairperson
Committee on Insurance

REFERRAL OF AGENCY REPORTS

State of Wisconsin
Gathering Waters Conservancy
Madison

January 13, 2005

To the Honorable, the Assembly:

It is my pleasure to share with you a report on Gathering Waters Conservancy's activities and accomplishments for Fiscal Year 2004. This report is being submitted in accordance with the statutory requirements of s. [23.0955 \(2\)\(b\)5](#). Gathering Waters Conservancy has had an extremely successful year, thanks to the ongoing support of the state legislature and the Department of Natural Resources.

There are now over 55 land trusts in the state. Together these organizations have permanently protected over 135,000 acres in communities across Wisconsin. Land trusts in Wisconsin have a combined membership of close to 50,000 individuals and thousands of local volunteers; they have raised millions of dollars to protect critical lands that benefit the public; and they work with private landowners every day to promote stewardship and protection of our natural resources.

We look forward to continuing to work with the Department and the state legislature to achieve our mutual conservation goals. Please do not hesitate to contact me for additional information. I have also attached Gathering Waters Conservancy's annual and financial reports for FY 2004 for your review.

Sincerely,
VICKI ELKIN
Executive Director

Referred to committee on **Natural Resources**.

State of Wisconsin
Department of Justice
Madison

January 14, 2005

To the Honorable, the Legislature:

Section [165.90](#) of the Wisconsin Statutes requires the Department of Justice to report on the performance of cooperative county-tribal law enforcement programs receiving aid under this section. This letter constitutes our report.

The Department of Justice's County-Tribal Law Enforcement Grant Program continues to help local law enforcement provide needed services in Native American communities. In addition, this program helps build a cooperative atmosphere and positive relationship between law enforcement and tribal governments and communities. Departmental staff is available to discuss this report and this important program.

Very truly yours,
PEGGY LAUTENSCHLAGER
Attorney General

Referred to committee on **Criminal Justice and Homeland Security**.

State of Wisconsin
Department of Administration
Madison

January 20, 2005

To the Honorable, the Legislature:

Included with this correspondence, I am submitting the reports from the Department of Administration, Division of Gaming (Gaming), for the fourth quarter of fiscal year 2004 (April 1, 2004 through June 30, 2004), the first quarter of fiscal year 2005 (July 1, 2004 through September 30, 2004) and the second quarter of fiscal year 2005 (October 1, through December 31, 2004). As required by s. [562.02 \(1\)\(g\)](#), Wis. Stats., the attached materials contain pari-mutuel wagering and racing statistical information, as well as the revenues for the program areas of Racing, Charitable Gaming, Bingo and Indian Gaming.

If you have any questions or comments regarding this report, please do not hesitate to contact Rachel Meek at (608) 270-2535.

Sincerely,
RICHARD PEDERSEN
Director of Racing and Support Services

Referred to committee on **State Affairs**.

State of Wisconsin
Department of Health and Family Services
Madison

January 21, 2005

To the Honorable, the Legislature:

Enclosed is a copy of the Child Abuse and Neglect Report 2003 Data, pursuant to s. [48.981](#). The report includes a

statistical analysis of suspected child abuse and neglect reports received and investigated by county child protective services (CPS) agencies and the state Bureau of Milwaukee Child Welfare in calendar year 2003. The report also contains information on child fatalities due to child abuse or neglect.

Sincerely,
HELENE NELSON
Secretary

Referred to committee on **Children and Families**.

State of Wisconsin
Department of Health and Family Services
Madison

January 21, 2005

To the Honorable, the Legislature:

In [1997 Act 27](#), the 97-99 Biennial Budget, the Legislature established requirements in state law intended to strengthen protections for children and vulnerable adults in organized care settings. The provisions require, among other things, that designated caregivers conduct background checks on all new and existing staff and bar them from employing anyone who has committed certain crimes or acts. DHFS and (for certain child care providers) counties and local school boards must perform checks on a provider before issuing a license or other credential. Individuals, who have committed prohibited crimes or acts may apply to the Department, counties, or school boards for a waiver of the employment or licensing bans upon evidence of rehabilitation.

Sections [48.685 \(5g\)](#) and [50.065 \(5g\)](#) of the Wisconsin Statutes direct the Department to submit an annual report to the legislature that specifies the number of persons who have sought waivers of employment or licensing bans by requesting to demonstrate that they have been rehabilitated. The report must also specify the number of requests that were approved and the reasons for the success or failure of the requests. Attached is the report for 2004.

Questions about this report should be referred to Linda Dawson, Acting Chief Legal Counsel, at 608-266-0355.

Thank you for distributing this report to members of the Assembly.

Sincerely,
HELENE NELSON
Secretary

Referred to committee on **Health**.

LEAVES OF ABSENCE

Representative Turner asked unanimous consent for a leave of absence for part of today's session for Representative Steinbrink. Granted.

Representative Vrakas asked unanimous consent that the Assembly stand recessed. Granted.

The Assembly stood recessed.

11:17 A.M.

RECESS

1:50 P.M.

The Assembly reconvened.

Speaker Gard in the chair.

CALENDAR OF TUESDAY, JANUARY 25

Assembly Bill 2

Relating to: eliminating the Joint Survey Committee on Tax Exemptions and increasing the membership of the Joint Committee for Review of Administrative Rules.

Assembly amendment 1 to **Assembly Bill 2** offered by Representative Kreuser.

Speaker Pro Tempore Freese in the chair.

Representative Steinbrink asked unanimous consent that his leave of absence be lifted. Granted.

POINT OF ORDER

Representative Albers rose to the point of order that Assembly amendment 1 to **Assembly Bill 2** was not germane under Assembly Rule [54\(3\)\(f\)](#).

Speaker Pro Tempore Freese ruled the point of order **well taken**.

Representative Kreuser appealed the ruling of the Chair.

The question was: Shall the ruling of the Chair stand as the ruling of the Assembly?

The roll was taken.

The result follows:

Ayes – Representatives Ainsworth, Albers, Ballweg, Bies, Davis, J. Fitzgerald, Freese, Friske, Gielow, Gottlieb, Gunderson, Gundrum, Hahn, Hines, Honadel, Huebsch, Hundertmark, Jensen, Jeskewitz, Kaufert, Kerkman, Kestell, Kleefisch, Krawczyk, Kreibich, Lamb, F. Lasee, LeMahieu, Loeffelholz, Lothian, McCormick, Meyer, Montgomery, Moulton, Mursau, Musser, Nass, Nerison, Nischke, Ott, Owens, Petrowski, Pettis, Pridemore, Rhoades, Stone, Strachota, Suder, Towns, Townsend, Underheim, Van Roy, Vos, Vrakas, Vukmir, Ward, Wieckert, Wood, Ziegelbauer and Speaker Gard – 60.

Noes – Representatives Benedict, Berceau, Black, Boyle, Colon, Cullen, Fields, Grigsby, Hebl, Hubler, Kessler, Kreuser, Krusick, Lehman, Molepske, Nelson, Parisi, Pocan, Pope-Roberts, Richards, Schneider, Seidel, Sheridan,

Sherman, Shilling, Sinicki, Staskunas, Steinbrink, Toles, Travis, Turner, Van Akkeren, Vruwink, Wasserman, Young and Zepnick – 36.

Absent or not voting – Representatives Gronemus, A. Williams and M. Williams – 3.

Motion carried.

The question was: Shall **Assembly Bill 2** be ordered engrossed and read a third time?

Motion carried.

Representative Huebsch asked unanimous consent that the rules be suspended and that **Assembly Bill 2** be given a third reading.

Representative Kreuser objected.

Representative Huebsch moved that the rules be suspended and that **Assembly Bill 2** be given a third reading.

The question was: Shall the rules be suspended and **Assembly Bill 2** be given a third reading?

The roll was taken.

The result follows:

Ayes – Representatives Ainsworth, Albers, Ballweg, Bies, Davis, J. Fitzgerald, Freese, Friske, Gielow, Gottlieb, Gunderson, Gundrum, Hahn, Hines, Honadel, Huebsch, Hundertmark, Jensen, Jeskewitz, Kaufert, Kerkman, Kestell, Kleefisch, Krawczyk, Kreibich, Lamb, F. Lasee, LeMahieu, Loeffelholz, Lothian, McCormick, Meyer, Montgomery, Moulton, Mursau, Musser, Nass, Nerison, Nischke, Ott, Owens, Petrowski, Pettis, Pridemore, Rhoades, Stone, Strachota, Suder, Towns, Townsend, Underheim, Van Roy, Vos, Vrakas, Vukmir, Ward, Wieckert, Wood and Speaker Gard – 59.

Noes – Representatives Benedict, Berceau, Black, Boyle, Colon, Cullen, Fields, Grigsby, Hebl, Hubler, Kessler, Kreuser, Krusick, Lehman, Molepske, Nelson, Parisi, Pocan, Pope–Roberts, Richards, Schneider, Seidel, Sheridan, Sherman, Shilling, Sinicki, Staskunas, Steinbrink, Toles, Travis, Turner, Van Akkeren, Vruwink, Wasserman, Young, Zepnick and Ziegelbauer – 37.

Absent or not voting – Representatives Gronemus, A. Williams and M. Williams – 3.

Motion failed.

Assembly Bill 3

Relating to: the number of pupils eligible to participate in the Milwaukee Parental Choice Program.

Assembly amendment 1 to **Assembly Bill 3** offered by Representative Young.

Assembly amendment 2 to **Assembly Bill 3** offered by Representative Kreuser.

Representative Young asked unanimous consent that Assembly amendment 1 to **Assembly Bill 3** be placed after Assembly amendment 2 to **Assembly Bill 3**. Granted.

Assembly amendment 3 to **Assembly Bill 3** offered by Representative Wasserman.

Assembly amendment 4 to **Assembly Bill 3** offered by Representative Wasserman.

Assembly amendment 5 to **Assembly Bill 3** offered by Representatives Sinicki and Richards.

Speaker Pro Tempore Freese asked unanimous consent that the Assembly stand informal. Granted.

The Assembly stood informal.

2:15 P.M.

INFORMAL

2:50 P.M.

The Assembly reconvened.

Speaker Gard in the chair.

Representative Jensen asked unanimous consent to be excused from voting on **Assembly Bill 3** and any amendments to **Assembly Bill 3** under Assembly Rule 77. Granted.

Representative Turner asked unanimous consent that the Assembly stand recessed. Granted.

The Assembly stood recessed.

2:53 P.M.

RECESS

4:30 P.M.

The Assembly reconvened.

Speaker Gard in the chair.

Representative Freese asked unanimous consent for a quorum call. Granted.

A quorum was present.

Speaker Pro Tempore Freese in the chair.

Representative Huebsch asked unanimous consent that the Assembly stand recessed. Granted.

The Assembly stood recessed.

4:34 P.M.

RECESS

4:45 P.M.

The Assembly reconvened.

Speaker Pro Tempore Freese in the chair.

The committee on **Rules** introduced a privileged resolution.

INTRODUCTION AND REFERENCE OF PROPOSALS

Read first time and referred:

Assembly Resolution 4

Relating to: establishing special orders of business for Thursday, January 27, 2005.

By committee on Rules.

The question was: Shall **Assembly Resolution 4** be adopted?

The roll was taken.

The result follows:

Ayes – Representatives Ainsworth, Albers, Ballweg, Bies, Davis, J. Fitzgerald, Freese, Friske, Gielow, Gottlieb, Gunderson, Gundrum, Hahn, Hines, Honadel, Huebsch, Hundertmark, Jeskewitz, Kaufert, Kerkman, Kestell, Kleefisch, Krawczyk, Kreibich, Lamb, F. Lasee, LeMahieu, Loeffelholz, Lothian, McCormick, Meyer, Montgomery, Moulton, Mursau, Musser, Nass, Nerison, Nischke, Ott, Owens, Petrowski, Pettis, Pridemore, Rhoades, Stone, Strachota, Suder, Towns, Townsend, Underheim, Van Roy, Vos, Vrakas, Vukmir, Ward, Wieckert, Wood and Speaker Gard – 58.

Noes – Representatives Benedict, Berceau, Black, Boyle, Colon, Cullen, Fields, Grigsby, Hebl, Hubler, Kessler, Kreuser, Krusick, Lehman, Molepske, Nelson, Parisi, Pohan, Pope–Roberts, Richards, Schneider, Seidel, Sheridan, Sherman, Shilling, Sinicki, Staskunas, Steinbrink, Toles, Travis, Turner, Van Akkeren, Vruwink, Wasserman, Young, Zepnick and Ziegelbauer – 37.

Absent or not voting – Representatives Gronemus, Jensen, A. Williams and M. Williams – 4.

Motion carried.

Assembly Bill 2 was made a special order of business at 9:01 A.M. on Thursday, January 27, pursuant to **Assembly Resolution 4**.

Assembly Bill 3 was made a special order of business at 9:02 A.M. on Thursday, January 27 2005, pursuant to **Assembly Resolution 4**.

ANNOUNCEMENTS

Representative Rhoades asked unanimous consent that the Assembly adjourn in memory of Representative Gronemus' husband, Bert Gronemus, who passed away on January 19. Granted.

Representative Ballweg asked unanimous consent that the Assembly adjourn in honor of Dr. GG Mueller Post 10452 and Post Commander Calbaum on the occasion of celebrating the 25th Anniversary of the charter as a VFW Post, dedicated to service in the Princeton Community to "Honor the dead while serving the living". Granted.

Representative McCormick asked unanimous consent that the Assembly adjourn in honor of Kellie Christine Lease, on the occasion of her acceptance into medical school. Granted.

Representative Bies asked unanimous consent that the Assembly adjourn in honor of the men and women of the Door County Sheriff's Department, District 3 of the Wisconsin State Patrol, Sturgeon Bay and Washington Island Police Departments for their efforts in making the highways safe in Door County and not having a traffic fatality in the year of 2004. Granted.

VISITORS

During today's session, the following visitors honored the Assembly by their presence and were welcomed by the presiding officer and the members:

Eddy Allen III, owner and operator of WDOR radio station, guest of Representative Bies.

ADJOURNMENT

Representative Huebsch moved that the Assembly stand adjourned until 9:00 A.M. on Thursday, January 27.

The question was: Shall the Assembly stand adjourned?

Motion carried.

The Assembly stood adjourned.

5:05 P.M.