



STATE OF WISCONSIN

Senate Journal

Ninety–Seventh Regular Session

10:00 A.M.

WEDNESDAY, May 11, 2005

The Senate met.

The Senate was called to order by Senator Alan Lasee.

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

Senators Breske, Brown, Carpenter, Coggs, Cowles, Darling, Decker, Ellis, Erpenbach, S. Fitzgerald, Grothman, Hansen, Harsdorf, Jauch, Kanavas, Kapanke, Kedzie, A. Lasee, Lassa, Lazich, Leibham, Miller, Olsen, Plale, Reynolds, Risser, Robson, Roessler, Schultz, Stepp, Taylor, Wirch and Zien – 33.

Absent – None.

Absent with leave – None.

The Senate stood for a moment of silent meditation.

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

CHIEF CLERK'S ENTRIES

The Chief Clerk makes the following entries Tuesday, May 10, 2005.

Senate Bill 61

Relating to: consecutive monthly registration of certain vehicles used exclusively to transport calcium chloride liquid.

Senate Bill 61 contains a fiscal note in excess of \$10,000. Pursuant to s.16.47(2) the committee on **Senate Organization** considers this bill to be an emergency and authorizes passage prior to the passage of the Budget Bill:

Ayes, 5 – Senators Schultz, Lasee, Kedzie, Robson and Hansen.

Noes, 0 – None.

Rereferred to the joint committee on **Finance** by committee on **Senate Organization** pursuant to Senate Rule 41 (1)(e):

Ayes, 5 – Senators Schultz, Lasee, Kedzie, Robson and Hansen.

Noes, 0 – None.

Withdrawn from the joint committee on **Finance** and placed on the calendar of 5–11–2005 by committee on Senate Organization pursuant to Senate Rule 41 (1)(e):

Ayes, 5 – Senators Schultz, Lasee, Kedzie, Robson and Hansen.

Noes, 0 – None.

Dale Schultz
Senate Majority Leader

INTRODUCTION, FIRST READING AND REFERENCE OF PROPOSALS

Read first time and referred:

Senate Bill 204

Relating to: authorizing cities, villages, towns, and counties to solicit bids for certain contracts by using the Internet.

By Senators Roessler, Darling and Reynolds; cosponsored by Representatives Musser, Albers, Hines, Kreibich, LeMahieu, Lothian, McCormick, Ott, Owens and Vos.

To committee on **Veterans, Homeland Security, Military Affairs, Small Business and Government Reform**.

PETITIONS AND COMMUNICATIONS

State of Wisconsin Legislative Audit Bureau

May 11, 2005

The Honorable, The Legislature:

As required by s. 13.94(1)(em), Wis. Stats., we have completed our annual financial audit and biennial program evaluation of the Wisconsin Lottery, which is administered by the Department of Revenue. We have issued an unqualified opinion on the Wisconsin Lottery's fiscal year (FY) 2002–03 and FY 2003–04 financial statements.

Total sales increased from \$406.7 million in FY 1999–2000 to \$482.9 million in FY 2003–04, or 18.7 percent. Both instant game and on–line ticket sales increased during this period. Approximately \$2.2 billion in property tax relief has been provided through gaming–related proceeds since the Wisconsin Lottery's inception in 1988.

Because instant game ticket sales account for the majority of the Wisconsin Lottery's revenues, we reviewed the process used to develop instant games, including those affiliated with copyrighted or trademarked properties. We include a recommendation to formalize game development and management practices and analyses. We also found that a loss of approximately \$212,000 was incurred in 2003 when participation in a Super Bowl prize drawing tied to the Powerball game was cancelled. We include a recommendation that the Wisconsin Lottery protect itself by ensuring that its contracts require a performance bond or similar guarantees.

We appreciate the courtesy and cooperation extended to us by Wisconsin Lottery staff in the Department of Revenue. The Department's response follows the appendices.

Sincerely,
JANICE MUELLER
State Auditor

ADVICE AND CONSENT OF THE SENATE

Senator Schultz, with unanimous consent, asked that the reading be dispensed with, and that all appointments except that of Jonathan Ela be taken up en masse.

ANDERSON, JUNE, of Oshkosh, as a member of the Educational Communications Board, to serve for the term ending May 1, 2007.

ARMSTRONG, PERRY, of Waunakee, as a member of the Wisconsin Housing and Economic Development Authority, to serve for the term ending January 1, 2006.

BASTING, THOMAS, of Madison, as a member of the Educational Communications Board, to serve for the term ending May 1, 2009.

BERKOS, DANIEL, of Mauston, as a member of the Public Defender Board, to serve for the term ending May 1, 2008.

GALE, RICK, of West Allis, as a member of the State Fair Park Board, to serve for the term ending May 1, 2009.

JOYNER, BENNIE, of Milwaukee, as a member of the State Fair Park Board, to serve for the term ending May 1, 2009.

NASHOLD, JENNIFER W., of Madison, as a member of the Tax Appeals Commission, to serve for the term ending March 1, 2009.

NORMAN, DIANE, of McFarland, as a member of the Tax Appeals Commission, to serve for the term ending March 1, 2007.

SOLDON, SCOTT, of Shorewood, as a member of the State Fair Park Board, to serve for the term ending May 1, 2005.

SOLDON, SCOTT, of Shorewood, as a member of the State Fair Park Board, to serve for the term ending May 1, 2010.

VAN DE HEY, RON, of Kaukauna, as a member of the Fox River Navigational System Authority, to serve for the term ending July 1, 2008.

VAN GOETHEM, RICK, of Green Bay, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2005.

WELLS, LENARD, of Madison, as Chair of the Parole Commission, to serve for the term ending March 1, 2007.

WILLIAMS, JAY, of Mequon, as a member of the Wisconsin Professional Baseball Park District Board, to serve for the term ending July 1, 2007.

Read.

The question was: Confirmation?

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

Ayes – Senators Breske, Brown, Carpenter, Coggs, Cowles, Darling, Decker, Ellis, Erpenbach, S. Fitzgerald, Hansen, Harsdorf, Jauch, Kanavas, Kapanke, Kedzie, A. Lasee, Lassa, Lazich, Leibham, Miller, Olsen, Plale, Reynolds, Risser, Robson, Roessler, Schultz, Stepp, Taylor, Wirch and Zien – 32.

Noes – Senator Grothman – 1.

Absent or not voting – None.

Confirmed.

ELA, JONATHAN, of Madison, as a member of the Natural Resources Board, to serve for the term ending May 1, 2005.

Read.

The question was: Shall the appointment be returned to the Governor with the following advice: that the Governor reconsider the candidate he forwards for Senate confirmation to the Natural Resources Board; that he ensure the nominee has a balanced perspective on the important issues facing this board; and that he build upon the bi-partisan cooperation shown thus far during this session regarding gubernatorial appointments?

The ayes and noes were required and the vote was: ayes, 19; noes, 14; absent or not voting, 0; as follows:

Ayes – Senators Brown, Cowles, Darling, Ellis, S. Fitzgerald, Grothman, Harsdorf, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Leibham, Olsen, Reynolds, Roessler, Schultz, Stepp and Zien – 19.

Noes – Senators Breske, Carpenter, Coggs, Decker, Erpenbach, Hansen, Jauch, Lassa, Miller, Plale, Risser, Robson, Taylor and Wirch – 14.

Returned with advice.

REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES

The committee on **Health, Children, Families, Aging and Long Term Care** reports and recommends:

Senate Clearinghouse Rule 04–142

Relating to the cancer drug repository program authorized under s.255.056, Stats., and affecting small businesses.

Modifications requested on 4–19–05, Ayes 3, Noes 2.

Ayes, 3 – Senators Roessler, Darling and Brown.
Noes, 2 – Senators Erpenbach and Carpenter.

Modifications requested on 5–5–05, Ayes 5, Noes 0.

Ayes, 5 – Senators Roessler, Darling, Brown, Erpenbach and Carpenter.
Noes, 0 – None.
No action taken.

CAROL ROESSLER
Chairperson

MESSAGES FROM THE ASSEMBLY

By Patrick E. Fuller, chief clerk.

Mr. President:

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

- Assembly Bill 48**
- Assembly Bill 93**
- Assembly Bill 103**
- Assembly Bill 166**
- Assembly Bill 167**
- Assembly Bill 179**
- Assembly Bill 197**
- Assembly Bill 210**
- Assembly Bill 240**
- Assembly Bill 399**

Adopted and asks concurrence in:

Assembly Joint Resolution 37

Amended and concurred in as amended:

Senate Bill 124 (Assembly amendment 1 adopted)

Concurred in:

Senate Bill 39

Senate Bill 78

**MESSAGES FROM THE ASSEMBLY
CONSIDERED**

Assembly Bill 48

Relating to: use of, and possession with intent to use, certain drug paraphernalia and providing a penalty.

By Representatives Pettis, Suder, Musser, Hines, Nass, Montgomery, Ott, Kreibich, Albers and Gunderson; cosponsored by Senators Harsdorf and Roessler.

Read first time and referred to committee on **Judiciary, Corrections and Privacy.**

Assembly Bill 93

Relating to: using a flashlight while hunting coyotes.

By Representatives Gunderson, Pettis, Albers, Ballweg, Friske, Gronemus, Hahn, Hines, Huebsch, Moulton, Mursau, Musser, Nass, Nerison, Ott and Vrakas; cosponsored by Senators Olsen and Reynolds.

Read first time and referred to committee on **Natural Resources and Transportation.**

Assembly Bill 103

Relating to: disclosure of facsimile transmission numbers.

By Representatives Pettis, Underheim, Albers, Ballweg, Gielow, Gunderson, Hahn, Hines, Jeskewitz, Krawczyk, Musser and Van Roy; cosponsored by Senators A. Lasee, Roessler, Stepp and Wirch.

Read first time and referred to committee on **Energy, Utilities and Information Technology.**

Assembly Bill 166

Relating to: wildlife damage abatement assistance.

By Representatives Pettis, Boyle, Ainsworth, Bies, Gronemus, Hahn, Hines, Hundertmark, Mursau, Musser, Nerison and Vos; cosponsored by Senators A. Lasee and Olsen.

Read first time and referred to committee on **Natural Resources and Transportation.**

Assembly Bill 167

Relating to: the investment by school districts of funds held in trust to provide post-employment benefits.

By Representatives Towns, Hundertmark, Mursau, Nischke, Hines, Townsend, Gielow, Strachota, Musser, Hahn, Gunderson, Molepske, Jeskewitz, Albers, Lehman, Petrowski, Kestell, Krawczyk, Ott and Freese; cosponsored by Senators Olsen, Grothman, Harsdorf and Lazich.

Read first time and referred to committee on **Education.**

Assembly Bill 179

Relating to: being physically in possession of a firearm, bow, or crossbow while hunting captive deer or other captive wild animals.

By Representatives Gunderson, Gard, Albers, Bies, Hahn, Hines, Krawczyk, Lehman, LeMahieu, Molepske, Nass, Ott, Petrowski, Pettis, Pridemore and Vos; cosponsored by Senators Lassa and Taylor.

Read first time and referred to committee on **Natural Resources and Transportation.**

Assembly Bill 197

Relating to: expanding the cancer drug repository program to include prescription drugs and supplies for chronic disease and requiring the exercise of rule-making authority.

By Representatives Vukmir, Underheim, Gard, Benedict, Vruwink, Montgomery, Pettis, Jeskewitz, Lehman, M. Williams, Albers, Hundertmark, Seidel, Strachota, Bies, Gronemus, Gunderson, Hahn, Hines, Kerkman, Mursau, Nass, Ott, Petrowski and Vrakas; cosponsored by Senators Roessler, Stepp, Brown, Kanavas, Cowles, Kedzie, A. Lasee, Lazich and Wirch.

Read first time and referred to committee on **Senate Organization.**

Assembly Bill 210

Relating to: the powers and duties of the Department of Veterans Affairs, veterans assistance, educational programs, burials, cemeteries, homes, housing loans, memorials, and museums, the employment rights and benefits available to persons who are in or who return from military service, the Educational Approval Board, granting rule-making authority, requiring the exercise of rule-making authority, making appropriations, and providing penalties.

By Joint Legislative Council.

Read first time and referred to committee on **Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.**

Assembly Bill 240

Relating to: the immobilization, impoundment, and disposal of unregistered motor vehicles.

By Representatives Zepnick, Honadel, Ainsworth, Ballweg, Colon, Friske, Gielow, Gottlieb, Grigsby, Hahn, Hines, Jeskewitz, Molepske, Musser, Ott, Seidel, Sinicki, Stone and Townsend; cosponsored by Senators Darling, Carpenter, Cogg, Kanavas, Plale and Stepp.

Read first time and referred to committee on **Natural Resources and Transportation.**

Assembly Bill 399

Relating to: the involvement of military base commanders with local zoning entities; creating a council on military and state relations; and requiring a seller of real property to disclose its proximity to the boundaries of a military installation.

By Representative Musser; cosponsored by Senator Brown.

Read first time and referred to committee on **Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.**

Assembly Joint Resolution 37

Relating to: proclaiming that the ancient Macedonians were Hellenes and that the inhabitants of the northern province of Greece, Macedonia, are their Hellenic descendants.

By Representatives Vrakas, Vukmir and Zepnick; cosponsored by Senator Kanavas.

Read and referred to committee on **Senate Organization.**

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

Senate Bill 61

Relating to: consecutive monthly registration of certain vehicles used exclusively to transport calcium chloride liquid.

Read a second time.

Ordered to a third reading.

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

Senate Bill 61

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 Breske, Brown, Carpenter, Coggs, Cowles, Darling, Decker, Ellis, Erpenbach, S. Fitzgerald, Grothman, Hansen, Harsdorf, Jauch, Kanavas, Kapanke, Kedzie, A. Lasee, Lassa, Lazich, Leibham, Miller, Olsen, Plale, Reynolds, Risser, Robson, Roessler, Schultz, Stepp, Taylor, Wirch and Zien – 33.

Noes – None.

Absent or not voting – None.

Passed.

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

Assembly Joint Resolution 33

Relating to: the life and service of George Watts.

Read.

The question was: Shall **Assembly Joint Resolution 33** be concurred in?

Concurred in.

Senator Lazich and Reynolds, with unanimous consent, asked to be made cosponsors of **Assembly Joint Resolution 33**.

Assembly Joint Resolution 35

Relating to: proclaiming the week of May 8 to 14, 2005, as Salvation Army Week in the state of Wisconsin.

Read.

The question was: Shall **Assembly Joint Resolution 35** be concurred in?

Concurred in.

Senator Hansen and Cowles, with unanimous consent, asked to be made cosponsors of **Assembly Joint Resolution 35**.

Assembly Bill 49

Relating to: preemption of city, village, town, or county living wage ordinances.

Read a second time.

Senator Reynolds moved that **Assembly Bill 49** be referred to the committee on **Labor and Election Process Reform**.

Senator Brown, with unanimous consent asked that the Senate recess.

11:40 A.M.

RECESS

12:18 P.M.

The Senate reconvened.

Senator A. Lasee in the chair.

The question was: Shall **Assembly Bill 49** be referred to the committee on **Labor and Election Process Reform**?

The ayes and noes were required and the vote was: ayes, 14; noes, 19; absent or not voting, 0; as follows:

Ayes – Senators Breske, Carpenter, Coggs, Decker, Erpenbach, Hansen, Lassa, Miller, Plale, Reynolds, Risser, Robson, Taylor and Wirch – 14.

Noes – Senators Brown, Cowles, Darling, Ellis, S. Fitzgerald, Grothman, Harsdorf, Jauch, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Leibham, Olsen, Roessler, Schultz, Stepp and Zien – 19.

Absent or not voting – None.

Referral Refused.

Senator Grothman raised the point of order that Senate amendment 1 to **Assembly Bill 49** was not germane.

The Chair ruled the point of order well taken.

Senator Erpenbach appealed the decision of the Chair.

The question was: Shall the decision of the Chair stand as the judgement of the Senate?

The ayes and noes were demanded and the vote was: ayes, 18; noes, 14; absent or not voting, 1; as follows:

Ayes – Senators Brown, Cowles, Darling, Ellis, S. Fitzgerald, Grothman, Harsdorf, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Leibham, Olsen, Reynolds, Schultz, Stepp and Zien – 18.

Noes – Senators Breske, Carpenter, Coggs, Decker, Erpenbach, Hansen, Jauch, Lassa, Miller, Plale, Risser, Robson, Taylor and Wirch – 14.

Absent or not voting – Senator Roessler – 1.

The decision of the Chair stands as the judgement of the Senate.

Ordered to a third reading.

Senator Schultz asked unanimous consent to consider the bill for final action at this time.

Senator Miller objected.

Senator Schultz moved that the rules be suspended and that **Assembly Bill 49** be given a third reading.

The question was: Shall the rules be suspended and **Assembly Bill 49** be given a third reading?

The ayes and noes were required and the vote was: ayes, 19; noes, 14; absent or not voting, 0; as follows:

Ayes – Senators Brown, Cowles, Darling, Ellis, S. Fitzgerald, Grothman, Harsdorf, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Leibham, Olsen, Reynolds, Roessler, Schultz, Stepp and Zien – 19.

Noes – Senators Breske, Carpenter, Coggs, Decker, Erpenbach, Hansen, Jauch, Lassa, Miller, Plale, Risser, Robson, Taylor and Wirch – 14.

Absent or not voting – None.

Refused to suspend the rules.

Senator Roessler, with unanimous consent, asked that the Journal reflect that she would have voted aye on the question: Shall the decision of the Chair standing as the judgement of the Senate?

Assembly Bill 261

Relating to: use of and access to digital recordings of a child's statement in certain court and administrative proceedings.

Read a second time.

Ordered to a third reading.

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

Assembly Bill 261

Read a third time and concurred in.

MOTIONS MAY BE OFFERED

Senator Kedzie, with unanimous consent, asked that **Assembly Bill 197** be withdrawn from the committee on **Senate Organization** and taken up at this time.

Assembly Bill 197

Relating to: expanding the cancer drug repository program to include prescription drugs and supplies for chronic disease and requiring the exercise of rule-making authority.

Read a second time.

Ordered to a third reading.

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

Assembly Bill 197

Read a third time and concurred in.

Senator Robson, Hansen, Taylor, Reynolds, Harsdorf and Erpenbach, with unanimous consent, asked to be made cosponsors of **Assembly Bill 197**.

Senator Schultz, with unanimous consent, asked that **Senate Bill 124** be withdrawn from the committee on **Senate Organization** and taken up at this time.

Senate Bill 124

Relating to: authorizing a town that has entered into a cooperative boundary agreement to use tax incremental financing.

Read.

The question was: Shall Assembly amendment 1 to **Senate Bill 124** be concurred in?

Concurred in.

Senator Schultz, with unanimous consent, asked that **Assembly Joint Resolution 37** be withdrawn from the committee on **Senate Organization** and taken up at this time.

Assembly Joint Resolution 37

Relating to: proclaiming that the ancient Macedonians were Hellenes and that the inhabitants of the northern province of Greece, Macedonia, are their Hellenic descendants.

Read.

The question was: Shall **Assembly Joint Resolution 37** be concurred in?

Concurred in.

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

Messaged.

**ANNOUNCEMENTS, ADJOURNMENT
HONORS, AND REMARKS UNDER
SPECIAL PRIVILEGE**

Senator Taylor, with unanimous consent, asked that when the Senate adjourn, it do so in honor of the women of the Delta Sigma Theta Sorority, a public service sorority that had Delta's day at the Capitol today.

Senator Wirch, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Robert Brehm in his retirement from the Pleasant Prairie Fire and Rescue Department after more than 20 years of distinguished service as an EMT.

Senator Lassa, with unanimous consent, asked that when the Senate adjourn, it do so in honor of the victims of the forest fire in the town of Big Flats in Adams County, as well as the firefighters who fought to put out the blaze.

Senator Schultz, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Senator Kedzie, who has been named Conservation Legislator of the Year by the Wisconsin Wildlife Federation.

ADJOURNMENT

Senator Schultz, with unanimous consent, asked that the Senate adjourn until Thursday, May 12, at 8:00 A.M.

Adjourned.

1:01 P.M.

AMENDMENTS OFFERED

Senate amendment 1 to **Senate Bill 136** offered by Senator Roessler.