



STATE OF WISCONSIN

Senate Journal

Ninety–Seventh Regular Session

12:00 P.M.

THURSDAY, June 23, 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 Robson 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 dated Wednesday, June 22, 2005.

The committee on **Senate Organization** reports:

Assembly Bill 5

Relating to: health benefit purchasing cooperatives.

Rereferred to the joint committee on **Finance**, 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Withdrawn from the joint committee on **Finance** and placed on the calendar of 6–23–2005, pursuant to Senate Rule 41 (1)(e):

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

Noes, 0 – None.

Dale Schultz
Senate Majority Leader

The committee on **Judiciary, Corrections and Privacy** reports and recommends:

Assembly Bill 56

Relating to: actions against sport shooting range owners or operators, against gun or sportsman's clubs, and against

manufacturers, importers, trade associations, or dealers of firearms, firearm components, or firearm ammunition.

Concurrence.

Ayes, 3 – Senators Zien, Roessler and Grothman.

Noes, 2 – Senators Taylor and Risser.

DAVID ZIEN
Chairperson

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 100

Assembly Bill 100

Relating to: state finances and appropriations, constituting the executive budget act of the 2005 legislature.

By joint committee on Finance, by request of Governor Jim Doyle.

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

INTRODUCTION, FIRST READING AND REFERENCE OF PROPOSALS

Read first time and referred:

Senate Bill 247

Relating to: considering a person's criminal record and evidence of abuse or neglect of a child when modifying custody or physical placement of a child.

By Senators Harsdorf, Lassa, Carpenter, A. Lasee, Reynolds, Risser, Roessler, Stepp, Zien and Darling; cosponsored by Representatives Wood, Lamb, Ainsworth, Albers, J. Fitzgerald, Freese, Gard, Gunderson, Gundrum, Hines, Honadel, Jensen, Kleefisch, Krawczyk, Kreibich, Lehman, Moulton, Petrowski, Pettis, Rhoades, Strachota, Suder, Townsend, Wasserman, Gronemus, Lothian and Nass.

To committee on **Health, Children, Families, Aging and Long Term Care**.

REPORT OF COMMITTEES

The joint committee on **Finance** reports and recommends:

Senate Bill 119

Relating to: funding for identification cards provided without charge by the Department of Transportation and making appropriations.

Introduction and adoption of Senate Amendment 1.

Ayes, 13 – Senators S. Fitzgerald, Lazich, Darling, Cowles, Leibham, Olsen and Decker. Representatives Kaufert, Ward, Jensen, Stone, Rhoades and Meyer.

Noes, 3 – Senator Taylor. Representatives Pocan and Colon.

Passage as amended.

Ayes, 13 – Senators S. Fitzgerald, Lazich, Darling, Cowles, Leibham, Olsen and Decker. Representatives Kaufert, Ward, Jensen, Stone, Rhoades and Meyer.

Noes, 3 – Senator Taylor. Representatives Pocan and Colon.

SCOTT FITZGERALD
Senate Chairperson

PETITIONS AND COMMUNICATIONS

State of Wisconsin

June 21, 2005

The Honorable, The Senate:

Pursuant to Senate Rule 46(2)(c), I am writing to direct that **Assembly Bill 116** be withdrawn from the committee on **Job Creation, Economic Development and Consumer Affairs** and rereferred to the committee on **Veterans, Homeland Security, Military Affairs, Small Business and Government Reform**. I have obtained the consent of the appropriate chairperson.

Sincerely,

ALAN LASEE
Senate President

State of Wisconsin
Legislative Audit Bureau

June 22, 2005

The Honorable, The Legislature:

We have examined the Indian Gaming, Racing, and Charitable Gaming programs administered by the Division of Gaming in the Department of Administration, as required by s. 13.94(1)(eg), Wis. Stats. We have issued an unqualified opinion on the Division's budgetary financial schedules for the three-year period from fiscal year (FY) 2001–02 through FY 2003–04.

Under the terms of the tribal–state gaming compacts, this office and the Department of Administration receive copies of independent financial audits of all Class III gaming operations for the 11 tribes that operate gaming facilities in Wisconsin. Based on these audited statements, total tribal revenue increased from \$889.5 million in 2000 to almost \$1.2 billion in 2004, or by 34.1 percent. Tribal expenditures increased from \$470.8 million in 2000 to \$676.2 million in 2004, or by 43.6 percent. Gaming profits, which are used by the tribes for payments to tribal members or for other purposes, increased from \$418.7 million to \$516.3 million, or by 23.3 percent.

Payments to the State increased under the 2003 compact amendments that were signed by 10 of the 11 tribes. The State received tribal payments of nearly \$24.9 million in FY 2002–03 and \$69.6 million in FY 2003–04. However, projecting future tribal payments is difficult pending the outcome of negotiations in response to a 2004 Wisconsin Supreme Court decision that invalidated certain compact provisions. In addition, because future payments to the State will be based on a percentage of net revenues, rather than on the lump–sum amounts most tribes paid in the past, it will be important for the Department of Administration to ensure that payments are correctly calculated and received in a timely manner. We note a number of potential concerns in these areas.

From FY 2001–02 through FY 2003–04, pari–mutuel tax revenue generated from greyhound racing and bingo tax revenue has declined. Nevertheless, during the three–year period we examined, the Racing and Charitable Gaming programs provided nearly \$4.0 million to the Lottery Fund for property tax relief.

We appreciate the courtesy and cooperation extended to us by the Department of Administration and the 11 tribal nations located in Wisconsin. A response from the Department of Administration follows the appendix.

Sincerely,

JANICE MUELLER
State Auditor

Pursuant to Senate Rule 17 (5), Senator Zien added as a coauthor of **Senate Bills 228** and **234**, and **Senate Joint Resolution 30**.

Pursuant to Senate Rule 17 (5), Senator Kedzie added as a cosponsor of **Assembly Bill 179**.

Pursuant to Senate Rule 17 (5), Senator Roessler added as a cosponsor of **Assembly Bill 5**.

ADVICE AND CONSENT OF THE SENATE

State of Wisconsin
Office of the Governor

June 17, 2004

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint LANDES, SAMUEL, of Dane, as a member of the Snowmobile Recreational Council, to serve for the term ending July 1, 2008.

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Higher Education and Tourism**.

ADVICE AND CONSENT OF THE SENATE

Senator Schultz, with unanimous consent, asked that the reading be dispensed with, and that the appointments be taken up en masse.

BOHACEK, LINDA, of Eau Claire, as a member of the Dentistry Examining Board, for the term ending July 1, 2008.

CORDERO, OTTO, of Sauk City, as a member of the Physical Therapists Affiliated Credentialing Board, to serve for the term ending July 1, 2007.

HEINE, MARGARET, of Janesville, as a member of the Board of Nursing, to serve for the term ending July 1, 2009.

LOCKHART, JACK, of La Crosse, as a member of the Medical Examining Board, to serve for the term ending July 1, 2009.

MISTELE, ENID, of Sparta, as a member of the Physical Therapists Affiliated Credentialing Board, to serve for the term ending July 1, 2006.

MUSSER, GENE, of Middleton, as a member of the Medical Examining Board, for the term ending July 1, 2009.

RODRIGUEZ, MARIANA, of Milwaukee, as a member of the Council on Domestic Abuse, to serve for the term ending July 1, 2008.

SPANO, DAVID, of Elm Grove, as a member of the Wisconsin Professional Baseball Park District Board, for the term ending July 1, 2007.

STROEDE, JANE, of Wisconsin Dells, as a member of the Physical Therapists Affiliated Credentialing Board, to serve for the term ending July 1, 2009.

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, 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 – 32.

Noes – Senator Ellis – 1.

Absent or not voting – None.

Confirmed.

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 04–109

Relating to the definition of “dental school.”

No action taken.

Senate Clearinghouse Rule 05–026

Relating to definitions, temporary trainees, continuing education, temporary licenses, and unprofessional conduct.

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 437

MESSAGES FROM THE ASSEMBLY CONSIDERED

Assembly Bill 437

Relating to: requiring the conveyance of property to a public utility for the construction of electric transmission lines.

By Representatives Montgomery, Huebsch, Jensen, Gard, Davis, J. Fitzgerald, Honadel, Nischke, Hahn, Zepnick, Ainsworth, Bies, Hines, Van Roy, Ott and Musser; cosponsored by Senators Plale, Kapanke, Kanavas, Wirch, Breske, Roessler, Lazich, Leibham and Schultz.

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

SECOND READING AND AMENDMENTS OF SENATE JOINT RESOLUTIONS AND SENATE BILLS

Senate Joint Resolution 30

Relating to: the celebration and commemoration of Agri–View’s 30 years of commitment to Wisconsin’s agricultural industry.

Read.

Adopted.

Senate Bill 228

Relating to: provider organizations subject to health care liability requirements.

Read a second time.

Senator Kedzie, with unanimous consent, asked that **Assembly Bill 259** be withdrawn from the committee on **Agriculture and Insurance** and taken up.

Assembly Bill 259

Relating to: provider organizations subject to health care liability requirements.

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.

Assembly Bill 259

Read a third time and concurred in.

Senator Schultz, with unanimous consent, asked that **Senate Bill 228** be laid on the table.

Senate Bill 234

Relating to: requiring the conveyance of property to electric utilities and cooperatives for the construction of electric transmission lines.

Read a second time.

Senator Schultz asked unanimous consent that **Assembly Bill 437** be withdrawn from the committee on **Senate Organization** and taken up.

Senator Decker objected.

Senator Schultz moved that the rules be suspended and that **Assembly Bill 437** be withdrawn from the committee on **Senate Organization** and taken up.

The question was: Shall the rules be suspended and **Assembly Bill 437** be withdrawn from the committee on **Senate Organization** and taken up?

The ayes and noes were required and the vote was: ayes, 26; noes, 7; absent or not voting, 0; as follows:

Ayes – Senators Breske, Brown, Coggs, Cowles, Darling, Ellis, S. Fitzgerald, Grothman, Hansen, Harsdorf, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Leibham, Miller, Olsen, Plale, Reynolds, Robson, Roessler, Schultz, Stepp, Wirch and Zien – 26.

Noes – Senators Carpenter, Decker, Erpenbach, Jauch, Lassa, Risser and Taylor – 7.

Absent or not voting – None.

Rules suspended.

Assembly Bill 437

Relating to: requiring the conveyance of property to a public utility for the construction of electric transmission lines.

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.

Assembly Bill 437

Read a third time.

Senator Zien in the chair.

The ayes and noes were demanded and the vote was: ayes, 27; noes, 6; absent or not voting, 0; as follows:

Ayes – Senators Breske, Brown, Carpenter, Cowles, Darling, Ellis, S. Fitzgerald, Grothman, Hansen, Harsdorf, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Leibham, Miller, Olsen, Plale, Reynolds, Robson, Roessler, Schultz, Stepp, Taylor, Wirch and Zien – 27.

Noes – Senators Coggs, Decker, Erpenbach, Jauch, Lassa and Risser – 6.

Absent or not voting – None.

Concurred in.

Senator Kedzie, with unanimous consent, asked that **Senate Bill 234** be laid on the table.

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

Assembly Bill 5

Relating to: health benefit purchasing cooperatives.

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.

Assembly Bill 5

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.

Concurred in.

Assembly Bill 24

Relating to: quorum requirements for a zoning board of appeals or adjustment.

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 24

Read a third time and concurred in.

Assembly Bill 179

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

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.

Assembly Bill 179

Read a third time and concurred in.

Assembly Bill 277

Relating to: general air pollution control permits, the term of registration air pollution control permits, the effect of a challenge to an emission limitation in an air pollution operation permit, and a report on regulatory barriers affecting manufacturing.

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.

Assembly Bill 277

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 21; noes, 12; absent or not voting, 0; as follows:

Ayes – Senators Breske, Brown, Cowles, Darling, Ellis, S. Fitzgerald, Grothman, Harsdorf, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Leibham, Olsen, Plale, Reynolds, Roessler, Schultz, Stepp and Zien – 21.

Noes – Senators Carpenter, Coggs, Decker, Erpenbach, Hansen, Jauch, Lassa, Miller, Risser, Robson, Taylor and Wirch – 12.

Absent or not voting – None.

Concurred in.

Assembly Bill 441

Relating to: applications for certificates of public convenience and necessity for certain electric generating facilities.

Read a second time.

Ordered to a third reading.

Senator Leibham, with unanimous consent, asked to be excused from voting under Senate Rule 73 (1).

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

Assembly Bill 441

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 24; noes, 8; absent or not voting, 1; as follows:

Ayes – Senators Breske, Brown, Coggs, Cowles, Darling, Decker, Ellis, S. Fitzgerald, Grothman, Hansen, Harsdorf, Kanavas, Kapanke, Kedzie, A. Lasee, Lazich, Olsen, Plale, Reynolds, Robson, Roessler, Schultz, Wirch and Zien – 24.

Noes – Senators Carpenter, Erpenbach, Jauch, Lassa, Miller, Risser, Stepp and Taylor – 8.

Absent or not voting – Senator Leibham – 1.

Concurred in.

Senator Roessler, with unanimous consent, asked to be added as a cosponsor of **Assembly Bill 5**.

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

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

Senator Leibham, with unanimous consent, asked that when the Senate adjourn, it do so in honor of the good citizens and volunteers of Sheboygan County for hosting Brat Day in Madison 2005.

Senator Wirch, with unanimous consent, asked that when the Senate adjourn, it do so in honor of the 65th wedding anniversary of Joseph C. and Marie L. Sturycz of Kenosha.

These parents of 12 children, 30 grand-children, and 27 great-grand-children attribute the success of their lasting relationship to being forever thankful to God for blessings, guidance and cooperation in employment, parenting, friendships, and working with special friends.

Senator Lassa, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Karen Lasecke who passed away this past Friday after a brave battle with cancer. She will be dearly missed by her family and friends.

ADJOURNMENT

Senator Schultz, with unanimous consent, asked that the Senate adjourn until Tuesday, June 28 at 10:00 A.M.

Adjourned.

1:38 P.M.

SENATE ENROLLED PROPOSALS

The Chief Clerk records:

Senate Bill 2

Senate Bill 55

Senate Bill 225

Senate Joint Resolution 26

Senate Joint Resolution 27

Senate Joint Resolution 28

Senate Joint Resolution 29

Report correctly enrolled on June 23, 2005.