



STATE OF WISCONSIN

Senate Journal

One-Hundredth Regular Session

11:46 A.M.

THURSDAY, November 3, 2011

The Senate met.

The Senate was called to order by President Ellis.

CALL OF ROLL

The roll was called, disclosing the presence of a quorum.

Pursuant to Senate Rule 15, the official attendance for session was:

Senators Carpenter, S. Cogg, Cowles, T. Cullen, Darling, Ellis, Erpenbach, S. Fitzgerald, Galloway, Grothman, Hansen, Harsdorf, Holperin, Jauch, Kedzie, King, C. Larson, Lasee, Lassa, Lazich, Leibham, Miller, Moulton, Olsen, Risser, Schultz, Shilling, Taylor, Vinehout, Vukmir, Wanggaard, Wirch and Zipperer – 33.

Absent – None.

Absent with leave – None.

The Senate stood for a moment of silence.

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

CHIEF CLERK'S ENTRIES

SENATE ENROLLED PROPOSALS

The Chief Clerk records:

Senate Bill 48

Senate Bill 241

Senate Joint Resolution 46

Report correctly enrolled on 11-3-2011.

INTRODUCTION, FIRST READING, AND REFERENCE OF PROPOSALS

Read:

Senate Resolution 22

Relating to: prohibiting waiver of public hearing requirement for bills placed on a calendar.

By Senator Miller.

Privileged.

REPORT OF COMMITTEES

The committee on **Senate Organization** reports:

Waived the public hearing requirement, pursuant to Senate Rule 18 (1m):

Assembly Bill 69

Assembly Bill 274

Assembly Bill 319

Ayes: 3 – Senators Fitzgerald, Ellis, and Grothman.

Noes: 2 – Senators Miller and Hansen.

SCOTT FITZGERALD

Chairperson

PETITIONS AND COMMUNICATIONS

Pursuant to Senate Rule 17 (5), Senator T. Cullen added as a coauthor of **Senate Bill 273**.

Pursuant to Senate Rule 17 (5), Senator Kedzie added as a cosponsor of **Assembly Bill 69**.

Pursuant to Senate Rule 17 (5), Senator Vinehout added as a cosponsor of **Assembly Bill 69**.

MESSAGES FROM THE ASSEMBLY

Senate Bill 116

Relating to: the dates of the September primary and certain other election occurrences and absentee voting.

Senate amendment 1 to Assembly substitute amendment 1 to **Senate Bill 116** offered by Senators T. Cullen, Risser, Miller, Hansen, Taylor, Vinehout and Holperin.

Senator S. Fitzgerald, with unanimous consent, asked that the Senate recess.

12:03 P.M.

RECESS

12:25 P.M.

The Senate reconvened.

President Ellis in the chair.

The question was: Shall Senate amendment 1 to Assembly substitute amendment 1 to **Senate Bill 116** be adopted?

IN THE CHAIR

Pursuant to Senate Rule 2 (1), Senator Wanggaard in the chair.

IN THE CHAIR

Senator Miller noted the possible lack of a quorum.

The roll was called and a quorum was present.

President Ellis in the chair.

Senator Lazich moved that Senate amendment 1 to Assembly substitute amendment 1 to **Senate Bill 116** be laid on the table.

The question was: Shall Senate amendment 1 to Assembly substitute amendment 1 to **Senate Bill 116** be laid on the table?

The ayes and noes were demanded and the vote was: ayes, 17; noes, 16; absent or not voting, 0; as follows:

Ayes – Senators Cowles, Darling, Ellis, S. Fitzgerald, Galloway, Grothman, Harsdorf, Kedzie, Lasee, Lazich, Leibham, Moulton, Olsen, Schultz, Vukmir, Wanggaard and Zipperer – 17.

Noes – Senators Carpenter, S. Coggs, T. Cullen, Erpenbach, Hansen, Holperin, Jauch, King, C. Larson, Lassa, Miller, Risser, Shilling, Taylor, Vinehout and Wirch – 16.

Absent or not voting – None.

Tabled.

The question was: Shall Assembly substitute amendment 1 to **Senate Bill 116** be concurred in?

Concurred in.

Senator Fitzgerald, with unanimous consent, asked that all action be immediately messaged to the Assembly:

Senate Bill 116

Action Messaged.

SECOND READING AND AMENDMENTS OF ASSEMBLY JOINT RESOLUTIONS AND ASSEMBLY BILLS

Assembly Bill 69

Relating to: the privilege of self–defense.

Read a second time.

Senate amendment 1 to **Assembly Bill 69** offered by Senators Erpenbach, Hansen, Taylor, Miller, Risser, Carpenter, T. Cullen, King, C. Larson, Holperin and S. Coggs.

The question was: Adoption of Senate amendment 1 to **Assembly Bill 69**?

Adopted.

President Ellis, with unanimous consent, asked that the Senate stand informal.

The Senate stood informal.

S. Fitzgerald moved reconsideration of the vote by which Senate amendment 1 to **Assembly Bill 69** was adopted.

The question was: Shall the vote by which Senate amendment 1 to **Assembly Bill 69** was adopted be reconsidered?

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

Ayes – Senators Carpenter, Cowles, Darling, Ellis, S. Fitzgerald, Galloway, Grothman, Harsdorf, Kedzie, Lasee, Lazich, Leibham, Moulton, Olsen, Schultz, Vukmir, Wanggaard and Zipperer – 18.

Noes – Senators S. Coggs, T. Cullen, Erpenbach, Hansen, Holperin, Jauch, King, C. Larson, Lassa, Miller, Risser, Shilling, Taylor, Vinehout and Wirch – 15.

Absent or not voting – None.

Reconsidered.

Senator S. Fitzgerald moved rejection of Senate amendment 1 to **Assembly Bill 69**.

Senator S. Fitzgerald, with unanimous consent, asked that **Assembly Bill 69** be placed at the foot of today's calendar.

Senator Miller submitted a resolution for introduction as a privileged resolution.

Senate Resolution 22

Relating to: prohibiting waiver of public hearing requirement for bills placed on a calendar.

Introduced by Senator Miller.

POINT OF ORDER

Senator Fitzgerald raised the point of order that **Senate Resolution 22** amends the Senate Rules and must layover for one week, pursuant to rule Senate Rule 90.

The Chair ruled the point of order well taken.

Senator Miller appealed the ruling of the Chair.

The question was: Shall the ruling of the chair stand as the judgement of the Senate?

The ayes and noes were demanded and the vote was: ayes, 17; noes, 16; absent or not voting, 0; as follows:

Ayes – Senators Cowles, Darling, Ellis, S. Fitzgerald, Galloway, Grothman, Harsdorf, Kedzie, Lasee, Lazich, Leibham, Moulton, Olsen, Schultz, Vukmir, Wanggaard and Zipperer – 17.

Noes – Senators Carpenter, S. Coggs, T. Cullen, Erpenbach, Hansen, Holperin, Jauch, King, C. Larson, Lassa, Miller, Risser, Shilling, Taylor, Vinehout and Wirch – 16.

Absent or not voting – None.

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

POINT OF ORDER

Senator Miller raised a point of order questioning the status of **Senate Resolution 22** as a privileged resolution.

The Chair took the question of privilege under advisement.

Assembly Bill 274

Relating to: requiring motorists to yield to railroad track equipment trains at railroad crossings and requiring a railroad to maintain its right-of-way.

Read a second time.

Ordered to a third reading.

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

Assembly Bill 274

Read a third time and concurred in.

Assembly Bill 319

Relating to: reductions in cost of compensation or fringe benefits to municipal employers without modifying an existing collective bargaining agreement for purposes of [2011 Wisconsin Act 10](#).

Read a second time.

Ordered to a third reading.

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

Assembly Bill 319

Read a third time and concurred in.

Senator Fitzgerald, with unanimous consent, asked that all action be immediately messaged to the Assembly:

Assembly Bill 274

Assembly Bill 319

Messaged.

**THIRD READING OF JOINT RESOLUTIONS
AND BILLS**

Senate Bill 202

Relating to: elimination of compensatory and punitive damages for acts of employment discrimination or unfair honesty or genetic testing.

Senate Bill 202

Relating to: elimination of compensatory and punitive damages for acts of employment discrimination or unfair honesty or genetic testing.

The question was: Shall **Senate Bill 202** be passed?

The ayes and noes were required and the vote was: ayes, 17; noes, 16; absent or not voting, 0; as follows:

Ayes – Senators Cowles, Darling, Ellis, S. Fitzgerald, Galloway, Grothman, Harsdorf, Kedzie, Lasee, Lazich, Leibham, Moulton, Olsen, Schultz, Vukmir, Wanggaard and Zipperer – 17.

Noes – Senators Carpenter, S. Coggs, T. Cullen, Erpenbach, Hansen, Holperin, Jauch, King, C. Larson, Lassa, Miller, Risser, Shilling, Taylor, Vinehout and Wirch – 16.

Absent or not voting – None.

Passed.

Senator Fitzgerald, with unanimous consent, asked that all action be immediately messaged to the Assembly:

Senate Bill 202

Messaged.

Assembly Bill 69

Relating to: the privilege of self-defense.

The question was: Shall Senate amendment 1 to **Assembly Bill 69** be rejected?

Senator S. Fitzgerald, with unanimous consent, asked that the Senate recess.

1:30 P.M.

RECESS

2:40 P.M.

The Senate reconvened.

President Ellis in the chair.

Senator S. Fitzgerald withdrew his motion to reject Senate amendment 1 to **Assembly Bill 69**.

The question was: Adoption of Senate amendment 1 to **Assembly Bill 69**?

Adopted.

Senate amendment 2 to **Assembly Bill 69** offered by Senator Risser.

Senator Wanggaard moved that Senate amendment 2 to **Assembly Bill 69** be laid on the table.

The question was: Shall Senate amendment 2 to **Assembly Bill 69** be laid on the table?

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

Ayes – Senators Cowles, Darling, Ellis, S. Fitzgerald, Galloway, Grothman, Harsdorf, Holperin, Kedzie, Lasee, Lazich, Leibham, Moulton, Olsen, Schultz, Vinehout, Vukmir, Wanggaard and Zipperer – 19.

Noes – Senators Carpenter, S. Coggs, T. Cullen, Erpenbach, Hansen, Jauch, King, C. Larson, Lassa, Miller, Risser, Shilling, Taylor and Wirch – 14.

Absent or not voting – None.

Tabled.

Ordered to a third reading.

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

Assembly Bill 69

Read a third time.

The question was: Shall **Assembly Bill 69** be concurred in as amended?

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

Ayes – Senators S. Coggs, Cowles, Darling, Ellis, S. Fitzgerald, Galloway, Grothman, Hansen, Harsdorf, Holperin, Jauch, Kedzie, King, Lasee, Lassa, Lazich, Leibham, Moulton, Olsen, Schultz, Taylor, Vinehout, Vukmir, Wanggaard, Wirch and Zipperer – 26.

Noes – Senators Carpenter, T. Cullen, Erpenbach, C. Larson, Miller, Risser and Shilling – 7.

Absent or not voting – None.

Concurred in as amended.

MESSAGES FROM THE ASSEMBLY

By Patrick E. Fuller, chief clerk.

Mr. President:

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

Assembly Joint Resolution 73

MESSAGES FROM THE ASSEMBLY CONSIDERED

Assembly Joint Resolution 73

Relating to: proclaiming November 2011 as pancreatic cancer awareness month.

By Representatives Kleefisch, Pope-Roberts, Vruwink, Roys, Zepnick, Kerkman, Ziegelbauer, Grigsby, Litjens, Tranel, C. Taylor, Hintz, Jorgensen, Hebl, Ringhand, Brooks, Staskunas, Marklein, Endsley and Thiesfeldt; cosponsored by

Senators Vinehout, Lazich, Miller, Lasee, Olsen, S. Coggs and Schultz.

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

Senator S. Fitzgerald, with unanimous consent, asked that **Assembly Joint Resolution 73** be withdrawn from the committee on **Senate Organization** and taken up at this time.

Assembly Joint Resolution 73

Relating to: proclaiming November 2011 as pancreatic cancer awareness month.

The question was: Shall **Assembly Joint Resolution 73** be concurred in?

Concurred in.

Senator Fitzgerald, with unanimous consent, asked that all action be immediately messaged to the Assembly:

Assembly Joint Resolution 73
Assembly Bill 69

Messaged.

MOTIONS MAY BE OFFERED

Senator King moved that **Senate Bill 272** be withdrawn from the committee on **Public Health, Human Services, and Revenue** and referred to the committee on **Senate Organization**.

Senate Bill 272

Relating to: restoring indexing provisions to the homestead tax credit.

The question was: Shall **Senate Bill 272** be withdrawn from the committee on **Public Health, Human Services, and Revenue** and referred to the committee on **Senate Organization**?

The ayes and noes were demanded and the vote was: ayes, 16; noes, 17; absent or not voting, 0; as follows:

Ayes – Senators Carpenter, S. Coggs, T. Cullen, Erpenbach, Hansen, Holperin, Jauch, King, C. Larson, Lassa, Miller, Risser, Shilling, Taylor, Vinehout and Wirch – 16.

Noes – Senators Cowles, Darling, Ellis, S. Fitzgerald, Galloway, Grothman, Harsdorf, Kedzie, Lasee, Lazich, Leibham, Moulton, Olsen, Schultz, Vukmir, Wanggaard and Zipperer – 17.

Absent or not voting – None.

Motion to withdraw and refer refused.

ANNOUNCEMENTS, ADJOURNMENT HONORS, AND REMARKS UNDER SPECIAL PRIVILEGE

Senator Wirch, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Charles Krueger certified nursing assistant in Kenosha. He's the recipient of the 2011 Wisconsin Caregiver of the Year Spotlight Award.

Senator Wirch, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Jean Ditzenberger, staff member in the Kenosha mayor's office for 6 mayors including

John Antaramian. She has been the force behind the mayor's office for 29 years, and we wish her well in retirement.

Senator Wanggaard, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Karla Bobo, who passed away on Sunday after a long illness. At a young age, she would read political magazines, and quote political commentators to her friends. Memories of her as an energetic, charismatic person with a smile always on her face abound. Karla was a teacher and devoted to her community. Karla will be missed by all who knew her, but most of all by her family, including her young daughter, Lauren, her parents Dawn and Craig Bobo, and her brothers, sisters, aunts, uncles and grandmother. The Senate's thoughts and prayers are with the Bobo family, as we celebrate Karla's life and memory.

Senator Shilling, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Onalaska Police Officer James Page and La Crosse County Deputy Sheriff Daniel Baudek who are the first law enforcement officers in the nation to receive the U.S. Justice Department's Law Enforcement Congressional Badge of Bravery award.

Senator Lazich, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Harold and Charlotte Koeffler. The Koeffler's celebrated their 71st wedding anniversary on April 21st. Charlotte celebrated her 93rd birthday September 24, and Harold will celebrate his 100th birthday Monday November 7, 2011.

Senator Hansen, with unanimous consent, asked that when the Senate adjourn, it do so in honor of his wife Jane and their 40th Wedding Anniversary on November 6th.

Senator Coggs, with unanimous consent, asked that when the Senate adjourn, it do so in honor of Elder Gregg, who was the Pastor of St. Matthew's CME Church in Milwaukee. He passed away on October 27, 2011.

Senator Taylor, with unanimous consent, asked that when the Senate adjourn, it do so in honor of her Aunt Dorothy Dunlap, who survived a stroke, and for the courage she has shown.

Senator Taylor, with unanimous consent, asked that when the Senate adjourn, it do so in honor of her brother Jacque Taylor, who will celebrate his birthday on November 4th.

Senator Taylor, with unanimous consent, asked that when the Senate adjourn, it do so in honor of her son Isiah Taylor, who will celebrate his birthday on November 10th.

Senator Vinehout, with unanimous consent, asked that when the Senate adjourn, it do so in honor of her constituent and rival, Mr. Ed Thompson. Ed passed away a Saturday ago. Ed was well loved by many, was a cheerleader for Tomah and a fierce competitor in politics and business. We will miss his forthrightness and independence, something Wisconsin politics could use now.

ADJOURNMENT

Senator S. Fitzgerald, with unanimous consent, asked that the Senate stand adjourned pursuant to **Senate Joint Resolution 1**.

Adjourned.

3:21 P.M.