SENATE RESOLUTION 1

March 3, 2011 – Introduced by Senator S. FITZGERALD. Referred to Committee on Senate Organization.

Relating to: compelling attendance of senators without leave.

Whereas, article IV, section 7 of the Wisconsin Constitution provides that “Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide”; and

Whereas, article IV, section 8 of the Wisconsin Constitution provides that “Each house may determine the rules of its own proceedings...”, and may punish for contempt; and

Whereas, Senate Rule 16 provides that “Members of the senate may not be absent from the daily session during the entire day without first obtaining a leave of absence”; and

Whereas, the senate was called to order and the roll was taken on February 17, 18, 22, 23, 24, and 25, and March 1 and 2; and
Whereas, the following senate members were absent from each of those sessions: Senators Carpenter, S. Coggs, T. Cullen, Erpenbach, Hansen, Holperin, Jauch, C. Larson, Lassa, Miller, Risser, Taylor, Vinehout, and Wirch; and

Whereas, each of those absent senators was absent without leave; and

Whereas, the absent senators have violated and continue to violate their plain and positive duty of attendance as required by Senate Rule 16, the plain and positive duty undertaken pursuant to the Wisconsin Constitution, article IV, section 28 which provides that “Members of the legislature...shall...take and subscribe an oath...faithfully to discharge the duties of their respective offices to the best of their ability” and the plain and positive duty inherent in their election in a representative democracy to faithfully attend, participate, and vote in the sessions of the legislature to which they were elected; and

Whereas, this body has sought by multiple calls of the senate, by the passage of certain resolutions, and by its taking of certain actions through its leadership, to provide notice to the absent senators that their continued absence was, and continues to be, contrary to the senate rules and was, and continues to be, contrary to the duty those senators owe to this body and owe to the citizens of Wisconsin; and

Whereas, the absent senators have been provided an opportunity to be heard on all matters that have been raised concerning their conduct by returning at any time to the senate in order to be recognized by the chair during session and speak on those matters, but none have returned; now, therefore, be it

**Resolved by the senate, That** the senate hereby exercises its constitutional authority, including, but not limited to, the authority granted to it by article IV, section 7, to “compel the attendance of absent members in such manner and under such penalties” as it may provide; and, be it further
Resolved, That Senators Carpenter, S. Coggs, T. Cullen, Erpenbach, Hansen, Holperin, Jauch, C. Larson, Lassa, Miller, Risser, Taylor, Vinehout, and Wirch are hereby ordered to appear at the senate chambers on or before 4:00 p.m. today, March 3, 2011, and to remain in the senate chambers until the senate is duly called to order and for such additional time as necessary to be counted as part of the quorum of that senate session; and, be it further

Resolved, That if any of the named senators fails to appear in the senate chambers on or before the prescribed time, then that member shall be held guilty of contempt and disorderly behavior by the senate, and the majority leader shall immediately issue an order to the sergeant at arms that he take any and all necessary steps, with or without force, and with or without the assistance of law enforcement officers, by warrant or other legal process, as he may deem necessary in order to bring that senator to the senate chambers so that the senate may convene with a quorum of no less than 20 senators; and, be it further

Resolved, That in order to assure that each of the absent senators has been given notice of this resolution, it shall forthwith be delivered to the office of each of the absent senators and posted on the Wisconsin State Senate Web site; and, be it further

Resolved, That in order to assure that each of the absent senators has been given an opportunity to answer the finding of contempt and to otherwise seek the expunction of the finding, if it has been made, that senator will be given an opportunity at the conclusion of the first complete senate session that he or she attends, to address the senate as a whole concerning that finding.

(END)