

# STATE OF WISCONSIN

# Senate Journal

## Ninety–Ninth Regular Session

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TUESDAY, April 6, 2010

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The Chief Clerk makes the following entries under the above date.

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### CHIEF CLERK'S ENTRIES

#### AMENDMENTS OFFERED

Senate substitute amendment 2 to **Senate Bill 25** offered by Senator Olsen.

Senate amendment 1 to **Senate Bill 297** offered by Senator Carpenter.

Senate amendment 1 to **Senate Bill 442** offered by Senator Plale.

Senate substitute amendment 1 to **Senate Bill 640** offered by Senator Coggs.

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### INTRODUCTION, FIRST READING, AND REFERENCE OF PROPOSALS

Read first time and referred:

#### **Senate Bill 668**

Relating to: the naming of Whitefish Dunes State Park.

By Senators Plale and Hansen; cosponsored by Representatives Sinicki, Zigmunt, Berceau, Townsend, Stone, Kessler, A. Williams and Turner.

To committee on **Transportation, Tourism, Forestry, and Natural Resources**.

#### **Senate Bill 669**

Relating to: willful misclassification of an employee as a nonemployee by a person engaged in the painting or drywall finishing of buildings or other structures with intent to evade the laws related to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination and providing a penalty.

By Senators Risser and Lassa; cosponsored by Representatives Pocan and Sinicki.

To committee on **Labor, Elections and Urban Affairs**.

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### REPORT OF COMMITTEES

The committee on **Public Health, Senior Issues, LongTerm Care, and Job Creation** reports and recommends:–

#### **Assembly Bill 482**

Relating to: the minimum sale price of prescription drugs.

Concurrence.

Ayes, 2 – Senators Carpenter, and Coggs.

Noes, 3 – Senators Vinehout, Schultz and Kapanke.

RONK, EARLENE, of Jefferson, as a member of the Nursing Home Administrator Examining Board, to serve for the term ending July 1, 2014.

Confirmation.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

SHEEHAN, HEATHER, of Hayward, as a member of the Nursing Home Administrator Examining Board, to serve for the term ending July 1, 2014.

Confirmation.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

TAYLOR, DALE, of Eau Claire, as a member of the Board on Aging and Long Term Care to serve for the term ending May 1, 2015.

Confirmation.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

#### **Senate Bill 115**

Relating to: licensure of dietitians and requiring the exercise of rule–making authority.

Adoption of Senate Amendment 1 to Senate Substitute Amendment 1.

Ayes, 4 – Senators Carpenter, Coggs, Vinehout and Schultz.

Noes, 0 – None.

Adoption of Senate Substitute Amendment 1.

Ayes, 4 – Senators Carpenter, Coggs, Vinehout and Schultz.

Noes, 0 – None.

Passage as amended.

Ayes, 4 – Senators Carpenter, Coggs, Vinehout and Schultz.

Noes, 0 – None.

#### **Senate Bill 538**

Relating to: requiring nursing homes to notify residents of certain alleged violations and providing a penalty.

Introduction of Senate Amendment 1.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

Adoption of Senate Amendment 1.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

Passage as amended.

Ayes, 3 – Senators Carpenter, Coggs and Vinehout.

Noes, 2 – Senators Schultz and Kapanke.

**Senate Bill 539**

Relating to: tax incentives for job creation.

Passage.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

**Senate Bill 547**

Relating to: informing correctional officers about inmates with contagious diseases.

Passage.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

**Senate Bill 594**

Relating to: requirements for residential facilities that provide or promote themselves as providing specialized care for persons who have Alzheimer’s disease or related dementia and providing penalties.

Passage.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

**Senate Bill 609**

Relating to: requiring informed consent before administration of psychotropic medication to a nursing home resident who has degenerative brain disorder.

Adoption of Senate Amendment 1 to Senate Amendment 1.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

Adoption of Senate Amendment 1.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

Passage as amended.

Ayes, 5 – Senators Carpenter, Coggs, Vinehout, Schultz and Kapanke.

Noes, 0 – None.

*TIM CARPENTER*  
Chairperson

The committee on **Senate Organization** reports:

[**MOTION**] Pursuant to Senate Rule 41 (1)(e), to refer *Senate Bill 640* to the Joint Committee on Finance, and to withdraw *Senate Bill 341* from the Joint Committee on Finance and place in the Senate Committee on Organization.

Ayes: 5 – Senators Decker, Risser, Hansen, Fitzgerald and Grothman.

Noes: 0 – None.

*RUSS DECKER*  
Chairperson

**PETITIONS AND COMMUNICATIONS**

Pursuant to Senate Rule 17 (5), Senator Sullivan added as a coauthor of **Senate Bill 669**.

**LEGISLATIVE REFERENCE BUREAU CORRECTIONS**

**CORRECTIONS IN:**

**SENATE AMENDMENT 1,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2009 SENATEBILL 542**

Prepared by the Legislative Reference Bureau  
(April 5, 2010)

1. Page 1, line 2: delete “s. 93.48” and substitute “s. 93.48”.
2. Page 1, line 2: delete “ss. 93.48 and 93.49” and substitute “ss. 93.48 and 93.49”.

**State of Wisconsin  
Government Accountability Board**

April 5, 2010

The Honorable, The Senate:

The following lobbyists have been authorized to act on behalf of the organizations set opposite their names.

For more detailed information about these lobbyists and organizations and a complete list of organizations and people authorized to lobby the 2009–2010 session of the legislature, visit the Government Accountability Board’s web site at: <http://ethics.state.wi.us/>.

Benink, Jeanne	AARP
Bowman, D’Anna	AARP
Brozek, Michael	West, a Thomson Reuters business (formerly Thomson West)
Jensen, Eric	Online Lenders Alliance (OLA)
Kubes, Joseph	West, a Thomson Reuters business (formerly Thomson West)
Kuehn, Ronald W	Wisconsin Bowhunters Association
Petersen, Eric J	JP Cullen and Sons, Inc.
Smith, Jim	Southeastern Regional Transit Authority (SERTA)
Watters, Charlene	National Nutritional Wellness Association, Inc.

Also available from the Wisconsin Government Accountability Board are reports identifying the amount and value of time state agencies have spent to affect legislative action and reports of expenditures for lobbying activities filed by organizations that employ lobbyists.

Sincerely,  
*KEVIN KENNEDY*  
Director and General Counsel

**State of Wisconsin  
Legislative Audit Bureau**

April 6, 2010

The Honorable, The Legislature:

In follow-up to previous audit work, we reviewed the use of funds the Wisconsin Department of Justice (DOJ) is awarded in negotiated settlement agreements and court judgments related to its successful prosecution of consumer protection and antitrust cases. From fiscal year (FY) 2004–05 through FY

2008–09, DOJ’s receipts from such cases totaled nearly \$11.8 million and included \$3.6 million for distribution to injured parties or as otherwise specified by the settlement or judgment, and \$8.1 million that may be used at the discretion of the Attorney General.

Over the past five years, DOJ has expended \$5.1 million of the discretionary receipts, which are deposited to its gifts, grants, and proceeds appropriation. Expenditures from that appropriation include approximately \$3.4 million to supplement DOJ’s own operations or help it meet lapse requirements enacted through legislation. As of June 30, 2009, DOJ’s gifts, grants, and proceeds appropriation had a balance of nearly \$4.2 million.

The Department of Administration currently reviews and approves all requests to expend the discretionary receipts DOJ is awarded in settlements and judgments. Past efforts to enhance or retain legislative oversight over their use have been limited by vetoes and by DOJ’s incomplete compliance with a statutory reporting requirement. The Legislature may therefore wish to consider extending an existing reporting requirement to include all funds DOJ receives from settlements and judgments or to reconsider legislation that would increase its oversight and budgetary control.

We appreciate the courtesy and cooperation extended to us by DOJ staff as we conducted this review.

Sincerely,  
*JANICE MUELLER*  
 State Auditor

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**State of Wisconsin  
 Legislative Audit Bureau**

April 6, 2010

The Honorable, The Legislature:

We have completed our calendar year 2008 financial audit of the Department of Employee Trust Funds, as requested by the Department and to fulfill our audit requirements under s. [13.94\(1\)\(dd\)](#), Wis. Stats. The Department’s financial statements report on the financial position and activity of various benefit programs available to state and local public employees, including the Wisconsin Retirement System (WRS) and health and life insurance programs for active and retired employees of the state and participating local governments. The statements and our unqualified opinion on them are included in the Department’s 2008 Comprehensive

Annual Financial Report (CAFR), which can be found on its Web site.

The largest program administered by the Department is the WRS, which reported net assets of \$59.4 billion at the end of 2008 and provided benefits totaling \$3.8 billion during 2008. Negative investment returns contributed to a net decrease in retirement assets of \$25.2 billion in 2008. At the end of 2008, the WRS was 76.5 percent funded based on the fair value of its assets and 99.7 percent funded based on standard actuarial measures, which smooth investment returns over a five–year period. More current information on the performance and status of the WRS can be found on the Department’s and the State of Wisconsin Investment Board’s Web sites.

Accompanying this letter is a management letter we provided to the Department, which includes an auditor’s report on internal control and compliance, as required by Government Auditing Standards. We are pleased to note that the Department has been attentive to addressing concerns we noted in past audits about its financial reporting process. We did not identify the level of errors for 2008 that we had found for 2006 and 2007.

We also note that the Department is in agreement with our recommendations and is working to address our continuing concerns with cash reconciliations on a program level and the need to be more diligent in ensuring that access changes to certain computer systems are made in a timely manner. However, because the Department has not had time to fully implement procedural changes recommended in the 2007 audit, we will continue to monitor and report on the Department’s progress in addressing these concerns in future audits.

Sincerely,  
*JANCIE MUELLER*  
 State Auditor

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**REFERRALS AND RECEIPT OF COMMITTEE  
 REPORTS CONCERNING PROPOSED  
 ADMINISTRATIVE RULES**

The committee on **Environment** reports and recommends:  
**Senate Clearinghouse Rule 09–088**  
 Relating to ambient air quality standards for ozone and lead and new reporting requirements for lead compounds.

No action taken.

*MARK MILLER*  
 Chairperson