

STATE OF WISCONSIN
Senate Journal
Ninety–Second Regular Session

WEDNESDAY, November 1, 1995

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

INTRODUCTION AND REFERENCE OF RESOLUTIONS AND JOINT RESOLUTIONS

Read and referred:

Senate Joint Resolution 41

Relating to: memorializing Congress to modify restrictions on the use of veterans mortgage bonds.

By Senators Fitzgerald, Zien, Buettner, Schultz, Rude, Drzewiecki, Moen, Breske and Clausing; cosponsored by Representatives Musser, Porter, Grothman, Murat, Boyle, Kaufert, Owens, Ainsworth, Otte, Gunderson, Dobyns, Brandemuehl, Baldus, Plombon, Coleman, Goetsch, Plache, Hahn, Olsen, Ryba, Nass and Zukowski, by request of the Department of Veterans Affairs and the Council on Veterans' Programs.

To special committee on **State and Federal Relations**.

Senate Joint Resolution 42

Relating to: congratulating the University of Wisconsin–Madison for its excellent doctoral programs.

By Senators Rude, Buettner, Burke, Zien, Moen, Darling, Fitzgerald, Panzer, Schultz, Weeden, Huelsman and C. Potter; cosponsored by Representatives Prosser, Hanson, Porter, Ryba, R. Potter, Lorge, R. Young, Grobschmidt, Otte, Baldwin, Dobyns, L. Young, Green, Wirsch, Goetsch, Hutchison, Ott, Plache, Zukowski, Baldus, Albers, Hahn, Silbaugh, Turner, Kreibich, Black, Klusman, Urban, Seratti, Ladwig, Walker, Huber, Olsen, Kreuser, Travis, Schneiders, Grothman, Ainsworth, Kelso, Gunderson, Boyle and Underheim.

To committee on **Senate Organization**.

INTRODUCTION, FIRST READING AND REFERENCE OF BILLS

Read first time and referred:

Senate Bill 389

Relating to: popular election of technical college district boards, providing an exemption from and extending the time limit for emergency rule procedures and granting rule-making authority.

By Senator Adelman.

To committee on **Education and Financial Institutions**.

Senate Bill 390

Relating to: various changes in the unemployment compensation law, unemployment compensation coverage for employes of cooperative sickness care associations and withholding of certain amounts from unemployment

compensation for payment of income taxes and providing a penalty.

By Senators Zien and Breske; cosponsored by Representatives Vrakas and Vander Loop.

To committee on **Human Resources, Labor, Tourism, Veterans and Military Affairs**.

Senate Bill 391

Relating to: the effective date of acts affecting crimes.

By Senators Huelsman, A. Lasee and Rosenzweig; cosponsored by Representatives Krug, Lorge, Goetsch, Otte, Albers, Ladwig, Hahn, Olsen, Huber, F. Lasee, Brandemuehl, Schneiders, Grothman, Lehman, Seratti, Gunderson, Vrakas and Baldwin, by request of State Bar of Wisconsin.

To committee on **Judiciary**.

Senate Bill 392

Relating to: providing for an order to show cause in certain cases.

By Senators Huelsman, Darling, Drzewiecki, Panzer, Rosenzweig and Buettner; cosponsored by Representatives Otte, Lehman, Ward, Hanson, Albers, Dobyns, Klusman, Hahn, Walker, Goetsch, Olsen, Huber, Brandemuehl, Wirsch, Ladwig, F. Lasee, Schneiders, Green, Bock, Kelso, Kreibich, Ziegelbauer, La Fave, Murat, Gunderson and Nass.

To committee on **Judiciary**.

Senate Bill 393

Relating to: seizure of motor vehicles in cases involving intoxicated operation of a motor vehicle.

By Senators Huelsman, Drzewiecki and Buettner; cosponsored by Representatives Foti, Lehman, Duff, Goetsch, Huber, Ladwig, F. Lasee, Schneiders, Kelso, Ziegelbauer, Wirsch, Grobschmidt, Vrakas, Gunderson, Nass and Green.

To committee on **Judiciary**.

Senate Bill 394

Relating to: preparation and distribution of a report regarding the administrative expenses and investment performance of the investment board.

By Senators Adelman, Burke, Clausing and Wineke; cosponsored by Representatives R. Potter, R. Young, Black, Krusick, Carpenter, Notestein, Bell, Bock, Wilder and Cullen.

To committee on **Education and Financial Institutions**.

Senate Bill 395

Relating to: duties of the joint committee on information policy, creation of a legislative information policy and privacy bureau and making appropriations.

By Joint Legislative Council .

To joint committee on **Information Policy**.

Senate Bill 396

Relating to: information technology resource planning and sharing by state agencies.

By Joint Legislative Council .

To joint committee on **Information Policy**.

Senate Bill 397

Relating to: creation of a Wisconsin information service and Wisconsin information service council and making an appropriation.

By Joint Legislative Council .

To committee on **Government Effectiveness**.

Senate Bill 398

Relating to: the use of tobacco products on school premises.

By Senators Decker and Breske; cosponsored by Representatives Musser and Silbaugh.

To committee on **Education and Financial Institutions**.

Senate Bill 399

Relating to: an individual income tax exemption for payments for medical care insurance.

By Senator Moen; cosponsored by Representatives Grobschmidt, Gronemus and Ryba.

To joint survey committee on **Tax Exemptions**.

Senate Bill 400

Relating to: eligibility for awards for costs incurred because of discharges from certain petroleum product storage tanks.

By Senators Rude, Moen, Buettner and Breske; cosponsored by Representatives Huebsch, Johnsrud, Freese, Ott, Goetsch, Musser, Zukowski, Wilder, Boyle, Grothman, Plombon, Kreibich and Skindrud.

To committee on **Environment and Energy**.

Senate Bill 401

Relating to: background investigations of applicants for employment in, and employes of, private schools participating in the Milwaukee parental choice program.

By Senators Rude, Darling, Huelsman, Schultz, Breske, Cowles and Clausing; cosponsored by Representatives Olsen, Kreibich, Kelso, Krusick, Plache, Seratti, R. Young, Hanson, Cullen, Urban, Hahn, Kreuser, Plombon, Ladwig, La Fave, Murat, Huber and Owens.

To committee on **Education and Financial Institutions**.

REPORT OF COMMITTEES

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

Senate Bill 402

Relating to: legislative oversight of the investment board, structure and composition of the investment board, regulation of certain investments by the investment board, granting rule-making authority and making an appropriation.

Introduction.

Ayes, 8 – Senators Rosenzweig, Weeden, Wineke and Decker; Representatives Lazich, Kelso, Plache and Huber.

Noes, 0 – None.

Peggy Rosenzweig
Senate Chairperson

Referred to joint committee on **Audit**.

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

Assembly Bill 498

Relating to: limited liability partnerships.

Concurrence.

Ayes, 15 – Senators Weeden, Schultz, Cowles, Panzer, Petak, Rosenzweig, George, Decker, Brancel, Foti, Porter, Schneiders, Ourada, Linton and Coggs.

Noes, 0 – None.

Timothy Weeden
Senate Chairperson

The committee on **Health, Human Services and Aging** reports and recommends:

Assembly Bill 244

Relating to: limiting required funding for protective placements or protective services and mental health services and expanding factors to be considered in making protective placements.

Concurrence.

Ayes, 4 – Senators Buettner, Rosenzweig, Zien and Welch.
Noes, 3 – Senators Moen, Breske and Moore.

Assembly Bill 441

Relating to: expanding requirements for a woman's informed consent for performance or inducement of an abortion and for consent to a minor's obtaining an abortion and providing a penalty.

Adoption of Senate substitute amendment 1.

Ayes, 6 – Senators Buettner, Zien, Welch, Moen, Breske and Moore.

Noes, 1 – Senator Rosenzweig.

Concurrence as amended.

Ayes, 4 – Senators Buettner, Zien, Welch and Breske.

Noes, 3 – Senators Rosenzweig, Moen and Moore.

Senate Bill 270

Relating to: creating a new standard of dangerousness for involuntary civil commitments and emergency detentions, requiring review by the attorney general or his or her designee of certain proposed emergency detentions, emergency detentions, proposed involuntary civil commitments and involuntary civil commitments and requiring preparation and submittal of certain reports.

Introduction and adoption of Senate amendment 1.

Ayes, 4 – Senators Buettner, Rosenzweig, Zien and Welch.
Noes, 3 – Senators Moen, Breske and Moore.

Passage as amended.

Ayes, 4 – Senators Buettner, Rosenzweig, Zien and Welch.
Noes, 3 – Senators Moen, Breske and Moore.

Senate Bill 340

Relating to: the members of an examining board entitled to vote to suspend or revoke a credential issued by the examining board, the requirements for licensure as a podiatrist and continuing education requirements for podiatrists.

Passage.

Ayes, 7 – Senators Buettner, Rosenzweig, Zien, Welch, Moen, Breske and Moore.

Noes, 0 – None.

Senate Bill 94

Relating to: permitting testing of an infant for controlled substances, in certain circumstances, without consent of the parent or guardian.

Introduction and adoption of Senate substitute amendment 1.

Ayes, 6 – Senators Buettner, Rosenzweig, Zien, Welch, Moen and Breske.

Noes, 1 – Senator Moore.

Passage as amended.

Ayes, 6 – Senators Buettner, Rosenzweig, Zien, Welch, Moen and Breske.

Noes, 1 – Senator Moore.

Carol Buettner
Chairperson

The committee on **Human Resources, Labor, Tourism, Veterans and Military Affairs** reports and recommends:

Assembly Bill 317

Relating to: eligibility for the veterans rehabilitation program.

Concurrence.

Ayes, 4 – Senators Zien, Fitzgerald, Breske and Decker.

Noes, 0 – None.

FALSTAD, DAVID B., of Racine, as a member of the Labor and Industry Review Commission, to serve for the term ending March 1, 2001.

Confirmation.

Ayes, 4 – Senators Zien, Fitzgerald, Breske and Decker.

Noes, 0 – None.

Senate Bill 366

Relating to: various changes to the worker's compensation law, granting rule-making authority and making appropriations.

Introduction and adoption of Senate amendment 1.

Ayes, 4 – Senators Zien, Fitzgerald, Breske and Decker.

Noes, 0 – None.

Passage as amended.

Ayes, 4 – Senators Zien, Fitzgerald, Breske and Decker.

Noes, 0 – None.

David Zien
Chairperson

The committee on **Insurance** reports and recommends:

Assembly Bill 299

Relating to: qualifications of chiropractors who provide independent evaluations for insurers, procedures for conducting independent evaluations for insurers and granting rule-making authority.

Concurrence.

Ayes, 7 – Senators Schultz, Huelsman, Buettner, Cowles, Chvala, C. Potter and Shibilski.

Noes, 0 – None.

Senate Bill 361

Relating to: immunity for persons who report insurance fraud.

Introduction and adoption of Senate amendment 1.

Ayes, 7 – Senators Schultz, Huelsman, Buettner, Cowles, Chvala, C. Potter and Shibilski.

Noes, 0 – None.

Passage as amended.

Ayes, 7 – Senators Schultz, Huelsman, Buettner, Cowles, Chvala, C. Potter and Shibilski.

Noes, 0 – None.

Senate Bill 362

Relating to: grounds, and notice requirements, for rescission of insurance contracts.

Passage.

Ayes, 6 – Senators Schultz, Huelsman, Buettner, Cowles, C. Potter and Shibilski.

Noes, 1 – Senator Chvala.

Dale Schultz
Chairperson

The committee on **Judiciary** reports and recommends:

Assembly Bill 115

Relating to: the placement, possession, transportation, loading or discharge of a firearm by certain private security persons.

Concurrence.

Ayes, 4 – Senators Huelsman, Welch, Drzewiecki and Darling.

Noes, 3 – Senators Risser, Adelman and Burke.

Assembly Bill 83

Relating to: battery to an emergency room worker and providing penalties.

Introduction and adoption of Senate amendment 1.

Ayes, 6 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser and Burke.

Noes, 1 – Senator Adelman.

Concurrence as amended.

Ayes, 6 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser and Burke.

Noes, 1 – Senator Adelman.

Assembly Bill 88

Relating to: seized dangerous weapons.

Introduction and adoption of Senate amendment 1.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Concurrence as amended.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

MCCRORY, MARC T., of Janesville, as a member of the Public Defender Board, to serve for the term ending May 1, 1998.

Confirmation.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Senate Bill 213

Relating to: polygraph testing of prospective employees of a law enforcement agency.

Passage.

Ayes, 5 – Senators Huelsman, Welch, Drzewiecki, Darling and Burke.

Noes, 2 – Senators Risser and Adelman.

Senate Bill 215

Relating to: disarming a peace officer.

Introduction and adoption of Senate amendment 1.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Passage as amended.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Senate Bill 292

Relating to: creating immunity from liability for the owner of recreational property if a person dies while involved in a recreational activity on the property.

Passage.

Ayes, 5 – Senators Huelsman, Welch, Drzewiecki, Darling and Risser.

Noes, 2 – Senators Adelman and Burke.

Senate Bill 323

Relating to: testing criminal defendants who are found not competent to proceed or not guilty by reason of mental disease or defect for the presence of the human immunodeficiency virus and sexually transmitted diseases.

Introduction and adoption of Senate amendment 1.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Passage as amended.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Senate Bill 72

Relating to: persons who are ordered to be confined as a condition of probation and providing a penalty.

Introduction and adoption of Senate amendment 1.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Passage as amended.

Ayes, 7 – Senators Huelsman, Welch, Drzewiecki, Darling, Risser, Adelman and Burke.

Noes, 0 – None.

Joanne Huelsman
Chairperson

PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Claims Board**

The Honorable, The Senate:

Enclosed is the report of the State Claims Board covering the claims heard on June 8, 1995.

The amounts recommended for payment under \$4,000 on claims included in this report have, under the provisions of s. 16.007, Stats., been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$4,000, if any, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,

EDWARD D. MAIN
Secretary

**State of Wisconsin
Claims Board**

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on June 8, 1995, upon the following claims.

<u>Claimant</u>	<u>Amount</u>
1. Jeffrey Stellings	\$ 250.00
2. Jerome E. Van Natta	\$ 250.00
3. P & M Processing, Inc.	\$ 118,543.49
4. David and Edith Kinney	\$ 58,000.00
5. William Shomler	\$ 4,400.00
6. Maurice and Karen Morley	\$ 4,383.00
7. Dan and Lynn Peerenboom	\$ 95,595.00
8. Raymond Koss	\$ 169,000.00
9. Northern Christmas Trees & Nursery	\$ 60,000.00
10. Carol J. Prasse	\$ 2,382.22
11. Ollie Charles	\$ 27,000.00
12. Barbara Hestekin	\$ 30,140.00
13. Erickson Oil Products, Inc.	\$ 114,787.73
14. John Vieth	\$ 104.24
15. City of Superior	\$1,369,824.62

In addition, the following claims were considered and decided without hearings:

16. Laurie Beth Clark	\$ 1,057.50
17. James M. Peterson	\$ 298.00
18. Bank of Luxemburg	\$ 975.00
19. James Shallue	\$ 195.98
20. Melissa Hill	\$ 435.00
21. Dana Gefter	\$ 618.10
22. Gangadharan Nair	\$ 298.40
23. Judith Knoblauch	\$ 20,493.58
24. John C. Befus	\$ 322.00
25. Bryan E. Goff	\$ 7,676.19
26. Walter Kahne	\$ 364.08
27. Debbie L. Cassucci-Crave	\$ 200.00
28. Townline Auto	\$ 378.29
29. Katrine Sackett	\$ 4,000.00
30. Margaret Cox	\$ 50.00
31. Margaret Cox	\$ 250.00

The Board Finds:

1. Jeffrey G. Stellings of Oshkosh, Wisconsin claims \$250.00 for reimbursement of his insurance. On December 6, 1994, the claimant was en route to work-related training at MATC. He was coming down a hill toward an intersection and was unable to stop his car because of the icy conditions. The claimant's car slid into the rear of a vehicle stopped at the stop sign. The police did not issue any citations for the accident; attributing it to icy road conditions. The vehicle which the claimant struck was not damaged. Since the accident occurred while the claimant was traveling on work-related business, while he was in pay status, and was not the claimant's fault, he requests reimbursement of his \$250.00 insurance deductible. The Board concludes there has been insufficient showing of

negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

2. Jerome E. Van Natta of Milwaukee, Wisconsin claims \$250.00 for vehicle damage which occurred on August 8, 1994. The claimant an employe of DOC, was attending Agent Basic Training in Milwaukee during the week of August 8–12. The Claimant's vehicle was parked in a hotel parking lot and was undamaged as of 8:30 p.m. August 8. At 8:00 a.m. August 9, the Claimant discovered that unknown persons had thrown a piece of concrete through the rear window of his vehicle. The entire window had to be replaced. The Claimant requests reimbursement of his \$250 insurance deductible. He feels he should be reimbursed because he had been assigned to be at the training site as a condition of his employment and completion of his probation. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

3. P. & M. Processing, Inc. of Juda, Wisconsin claims \$118,543.49 damages related to a fire which occurred on January 13, 1992. Dr. Gene Killam, a DATCP veterinarian, visited the plant that day and ordered the condemnation of large quantities of inventory and supplies. No follow-up inspection of any of the inventory ever occurred and the claimants were never informed of their right to an immediate hearing. Almost all of the inventory and supplies that were condemned were located in closed freezers or coolers that remained running at all times and were not affected by the fire, which had been contained in the attic area. The claimants believe that DATCP improperly condemned the inventory in violation of Chapters 93 and 97 of Wisconsin Statutes, Chapter AG 47 of the Wisconsin Administrative Code, and DATCP's internal rules and regulations. The claimants request \$96,343.49 for damages related to this condemnation of inventory. The claimants insurer paid \$53,118.09; \$6,500 of which was for building damage unrelated to this claim. The claimants also request \$22,200.00 for lost profits due to DATCP's November 1991 order to cease transporting inedible meat. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

4. David and Edith Kinney of Hudson, Wisconsin claim \$58,000.00 for damages related to a home which they purchased in 1986. The claimants believe that a North Hudson building inspector improperly passed the dwelling. They state that the building inspector noticed code violations at the initial inspection, was aware of numerous repairs later required to fix the dwelling, and had engineering proof of the structure's deficiencies, yet failed to issue any citations. The claimants understand that the inspector is not a state employe, however, believe that he was inadequately trained and certified by DILHR. The claimants further assert that DILHR was negligent in accepting falsified test results for some of the building materials used in the home, and that DILHR should never have approved these materials. The claimants presented engineering proof to DILHR that the material's test results were falsified, however, DILHR refused to take any action. The Claimants believe DILHR failed in their responsibilities and request reimbursement of \$58,000 for the principal and down payment put into the home. In 1993 the claimants were forced to abandon the home, which had no value because of the serious structural defects. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which

the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. William G. Shomler of Sun Prairie, Wisconsin claims \$4,400.00 for costs related to the installation of a mound septic system. On March 29, 1993, the claimant received a permit to build an underground septic system on his property in Fox Hills Subdivision. On May 10, 1993, that permit was canceled. The claimant received a letter from the Dane County Division of Public Health explaining that, although the County had originally required mound systems in the subdivision, in 1988 DILHR granted approval for underground systems. However, in May 1993 DILHR discovered that ground water conditions in the subdivision were such that underground septic systems were unsafe and rescinded their 1988 decision. This required landowners to cease construction of underground systems and obtain revised sanitary permits for mound systems. It cost the claimant \$4,400 more to install a mound system. (The claimant had not yet begun construction of an underground system.) He believes that DILHR should have heeded the County's warning about the ground water situation, and never given approval for underground tanks. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

6. Maurice and Karen Morley of Dousman, Wisconsin claim \$4383.00 for damages relating to the alleged mishandling of a sanitary permit by the Safety and Buildings Division of DILHR. The claimants submitted a plan for a private, mound sewage system for a building they were constructing in Ottawa, Wisconsin. The plan was received by the Waukesha Safety and Buildings Office on March 26, 1993. The claimants did not receive approval for the plan until May 7, 1993, 43 days later. The claimants called the Safety and Buildings office and were told that the employe who entered the address information into the computer mistakenly used the wrong city when addressing the envelope, so the response was delayed in the mail. They were also told that there was some "confusion" over the correct address on their application. The claimants assert that if there was confusion, the Department should have called to clear up the problem (the phone number was correctly provided on the application). They allege the delay cost them \$3,033 in increased building costs and \$1,350 lost rental income in an apartment. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

7. Dan and Lynn Peerenboom of Tomahawk, Wisconsin claim \$95,595.00 for damages related to monitoring orders placed on their septic system. In May 1993, DILHR issued an order that monitoring wells be placed on a number of lots in the Fox Hills subdivision due to high groundwater. This order reversed two previous DILHR decisions that monitoring was not required in the subdivision. The Claimants believe that this order was unreasonable given the record rainfall. The Claimants state that DILHR staff entered their property uninvited and unannounced to inspect their property. No problem was found with the septic system. DILHR later removed the monitoring orders on 16 out of 20 properties, despite the fact that they only conducted on-site inspections of 3 of the properties. The Claimants also disagree with the fact that the monitoring well was placed immediately adjacent to and downhill from the infiltration trenches for the Claimants' septic system. The Claimants find it impossible to believe that the readings from the monitoring well would not be impacted by the additional hydraulic loading. The Claimants had to move during this monitoring period and agreed to an additional site

evaluation because of the difficulty they were having selling their home. The Claimants do not believe that they were given an objective review by DILHR field staff. Statements made by the staff person assigned to do the investigation made it clear that he was opposed to removing the orders and resented being asked to reevaluate the site. There was no water observed in any of the test pits, despite the fact that nearly 4 inches of rain had fallen in the week prior to the investigation; however, DILHR staff still concluded that shallow groundwater was a problem. The Claimants request reimbursement for real estate damages, additional expenses and qualitative costs. The house did not appreciate in value and eventually sold at \$28,000 less than its market value. The Claimants had to hire a Realtor, despite the fact that they have successfully sold three homes in the past without one. The Realtor's commission on the sale was \$8,670. The Claimants also had to place \$10,350 in escrow as a condition of the sale, to cover the possible replacement costs of a new septic system. Because it took over a year for them to sell their home, the Claimants had to maintain separate residences 200 miles apart. The Claimants believe that 5 months is a reasonable selling time for a home and therefore, request \$26,745 additional living expenses. Finally, the Claimants request \$21,000 for stress, anxiety, prolonged separation, and disruption to lifestyle. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Raymond Koss of Mosinee, Wisconsin claims \$169,000.00 for loss of property value allegedly incurred because the DNR denied him a permit to remove sand from a spit on Lake DuBay. The claimant wishes to subdivide his property for development purposes. The DNR denied the permit, stating that the area is a wetland and that dredging would be harmful to the area. The claimant maintains that the site is not a natural wetland, but originally consisted of open water until the DuBay dam was built, which caused an abnormal build up of sand and blocked the flow of water from the channel into the river. He further alleges that this blockage has caused fish kill and that removing the sand bay would improve the movement of fish into the channel and would not adversely effect other wildlife in the area. He disputes the DNR's assertion that they did not know of the development plans for the area when they denied his permit, stating that he had forwarded the initial development plans to the DNR for their approval prior to the permit application. The claimant alleges that the most current appraisal of his property, don on July 15, 1993, shows a 77% decrease in the value of his property if the sand spit is not removed. The claimant believes that this devaluation constitutes a taking of his property for which he should be compensated. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

9. Northern Christmas Trees and Nursery of Merrilan, Wisconsin Claims \$60,000.00 for damages to claimant's Christmas tree farm related to flooding allegedly caused by beaver dams. In the spring of 1994, the claimant lost a large number of trees because of flooding. The claimant was told by DNR that he was not allowed to take action to remove the beaver dams. The flooding resulted in a loss of \$60,000 worth of trees. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

10. Carol J. Prasse of Elm Grove, Wisconsin claims \$2,382.22 for attorney fees related to her application for certification as a Level 2 School Psychologist. On June 16, 1993, the Claimant submitted her application to UW-Milwaukee for Level 2 certification. UWM refused to endorse her application, stating that she did not fulfill the requirements. The Claimant challenged UWM's decision. Three weeks later, the Claimant received a letter from Professor Teeter, Chair of the School Psychology program. Professor Teeter's letter indicated that, while her undergraduate coursework could fulfill the statistics requirement, the Claimant was still short by 5 courses. The Claimant's former advisor wrote Professor Teeter on the Claimant's behalf, stating that her coursework did indeed fulfill the requirements for Level 2 certification. Three weeks passed without any reply from Professor Teeter. The Claimant did not believe the Professor Teeter would give her a fair review, due to previous hostilities which Teeter had expressed towards the Claimant's husband. She filed a complaint against Teeter, asking that Teeter not be allowed to participate in the review of her application and named two other professors whom she felt would grant her a fair review. In August 1993, the Claimant received response from Teeter indicating that her coursework was still not acceptable. Without the Claimant's knowledge or consent, UWM submitted her application, along with 3 other applications, to Dr. Peter Burke, Director of the Bureau for Teacher Education, Licensing, and Placement at DPI, for his review. This review was not "blind" as stated in DPI's response; the names of the applicants were clearly stated on the cover letter from Acting Dean Schneider. On September 20, 1993, the Claimant received another denial of endorsement from Acting Dean Schneider. In her letter, Schneider now stated that the Claimant's undergraduate statistics coursework did not fulfill the graduate requirement, despite the fact that Professor Teeter's original letter indicated that this coursework was acceptable. Schneider stated that the reviewer (Burke) had recommended denying her application. Dr. Burke had not made this statement, he had indicated that this decision was up to UWM. Schneider also misquoted Dr. Burke's letter in determining that her undergraduate statistics coursework was unacceptable and denied the Claimant's application based on a statement that concerned two other student's applications. The Claimant had 5 UWM professors write on her behalf stating that her coursework was sufficient, however, UWM still would not endorse her certification. The Claimant finally felt forced to hire an attorney. After communication with her attorney, UWM finally agreed to endorse her application and she was granted a Level 2 license on June 15, 1994. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

11. Ollie Charles of Stevens Point, Wisconsin claims \$27,000.00 for life insurance benefits she is entitled to receive as beneficiary under her husband's life insurance policies. This claim was previously considered in Executive Session on February 9, 1993. A rehearing was granted at the request of the claimant. The claimant is the widow of Monte Charles, a former employee of UW-Stevens Point. While employed at the University, Mr. Charles applied for State Group Life Insurance/Basic and Supplemental coverage and National Guardian Life Insurance. It was Mr. Charles' impression, at the time, that he was applying for the maximum coverage available. On Mr. Charles' monthly earning and deductions statements there were deductions for basic, supplemental, and additional life insurance coverage. The State Group Life/Basic and Supplemental Coverage program provides a death benefits equal to two times the employee's annual salary. The

“additional” program provides coverage in an amount equal to three times the employee’s base salary. Upon Mr. Charles’ death, the insurer, Minnesota Mutual Life, paid the benefit indicated on the application form – \$54,000.00—or twice Mr. Charles’ annual salary. The claimant now seeks to receive an additional \$27,000, representing the higher benefit that would have been paid under the “additional” program. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

12. Barbara Hestekin of Eau Claire, Wisconsin claims \$30,140.00 for relocation costs related to the condemnation of her home due to a highway project in Eau Claire. The claimant is disabled and lives on Social Security Disability payments. The claimant owned a home appraised at \$37,000, with two mortgages of \$31,203.76 and \$5,501.66. Due to her disability, she received a \$125/month subsidy on her first mortgage, which lowered her payment to \$175/month. Her second mortgage payment (\$140/mo.) was totally paid by disability insurance. DOT purchased the claimant’s home for \$39,000. They paid off her first mortgage, second mortgage, and taxes, leaving a \$1,000.20 payment to the claimant. DOT informed the claimant that she would probably be eligible for a replacement housing payment of \$5,150; estimating the purchase cost of a comparable home at \$42,150. DOT paid the claimant \$2,415.50 for moving expenses and closing costs. The claimant made an offer to purchase a comparable home, however, she could not qualify for financing. She was not eligible for FHA, WHEDA or HUD loans and was denied financing by private lenders because of her low income. DOT offered to arrange priority status for a public housing rental unit, however, the claimant did not wish to give up being a homeowner. She was eventually able to purchase a home, with the assistance of a co-signer but could not receive approval for more than \$34,000 financing and was therefore forced to buy a home lesser value than her previous home. When the claimant applied for relocation assistance from DOT, she was denied because her new home was not of comparable value, she had a co-signer, and the house was purchased without a DOT required inspection. The claimant sued DOT but the case was dismissed for lack of statutory provisions under which she could be paid. The claimant is requesting \$29,000 to cover her losses which include: the disability subsidy payments on her first mortgage, the disability insurance payment of her second mortgage, and the DOT replacement housing payment she would have been eligible for if she had been able to purchase a comparable home. In addition, the claimant requests reimbursement of storage costs she was forced to incur because she had to purchase a much smaller home. Her storage costs total \$1,140.00, resulting in a total claim of \$30,140.00. The Board recommends that the claim be paid in the reduced amount of \$6,256.39 based on equitable principles. the Board further recommends, under the authority of s. 16.007(6m), Stats., payment should be made from Department of Transportation appropriation s. 20.395(3)(cq), Stats.

13. Erickson Oil Products, Inc. of Hudson, Wisconsin claims \$114,78.73 for damages related to a DOD/DOT Request for Proposal (RFP) for development of a Tourist Information Center in Hudson, Wisconsin. In October 1991, the claimant submitted a response to the RFP, which included an offer to purchase and the required earnest money deposit of \$81,000. The Offer to Purchase, which was drafted by the State, provided that the offer would be approved by January 3, 1992, or the deposit would be refunded by January 17, 1992. On December 9, 1991, the claimant met with Thomas McCarthy, DOT District Director, who said that the claimant had submitted the only response to the RFP and would be the developer for the

project. By January 17, 1992, DOT/DOD had not returned the claimant’s deposit, as required by the RFP. On March 17, 1992, the claimant met with DOT Secretary Charles Thompson, who said that DOT intended to work with them to complete the project. DOT then issued press releases announcing an agreement with the claimant for development of the project. The claimant again met with DOT and DOD to discuss moving forward with the project plans on April 3, 1992. In late April 1992, Mr. McCarthy told the claimant that the project had been put “on hold.” On May 20, 1992, DOT wrote the claimant, rejecting the offer to purchase and stating that the deposit would be returned shortly. The claimant believes it had an oral contract with the State and, based on the state’s assurances, expended significant amounts of money in preparing for development of the project. The claimant brought suit against the State but the suit was dismissed based on sovereign immunity. The dismissal was upheld on appeal. The claimant requests reimbursement of: \$6,149.90 = 12% interest on deposit; \$44,472.28 = development costs; and \$61,164.55 = litigation costs. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

14. John Vieth of Platteville, Wisconsin claims \$104.24 for reimbursement of money withheld from his paycheck for expenses related to a state van. The claimant was employed by the Office of the Secretary of State. On his last day of employment, August 19, 1994, the claimant was to drive the state van from Dodgeville to Madison, picking up other riders on the way. He was unable to start the van that morning and did not have access to a phone to notify the Vanpool office or the other riders. On September 1, 1994, the claimant received his final paycheck. \$104.24 had been withheld from the check for costs related to the problems on August 19th. Specifically, the Vanpool office withheld \$61.60 for personal mileage and parking costs paid to the other van riders, and \$42.62 for towing costs. The claimant contends that he was not responsible for the van’s mechanical failure and was never informed that he could be legally responsible for charges of this sort. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. (Member Edward Main not participating.)

15. The City of Superior, Wisconsin claims \$1,300,000.00 for refund of taxes paid to the state. This claim was originally considered on April 21, 1994. At that meeting the Board recommended payment of \$700,000. Legislation for this payment was never drafted because the City of Superior requested a rehearing. In 1977, the Wisconsin legislature adopted 70.40 Wis. Stats. which imposed an occupational tax on iron ore concrete docks. The tax was set at 5 cents per ton of iron ore concentrates handled by the dock. the City of Superior was made the collecting agency for this tax, but was allowed to keep only 70% of the tax, forwarding the remaining 30% to the state. A 1986 Wisconsin Supreme Court decision declared these occupational taxes to be unconstitutional. As result of that court ruling, the City was ordered to repay taxes collected under that statute, on behalf of the state, from Burlington Northern dating back to 1977. The City filed a claim against the state and on August 17, 1987, the Claims board recommended payment of \$1,575,932.89 to the City, for the state’s share of the proceeds from the tax, plus 5% interest to November 2, 1987. As a result, the legislature passed [1987 Wisconsin Act 414](#), authorizing the payment of \$1,613,364.53 from the general fund in payment of this. This amount represented the entire amount of Superior’s claim, through

November of 1987. On April 21, 1994, the Claims Board considered what was essentially the same as the current claim, and awarded the City \$700,000. No legislation for this award was ever drafted, as this amount was deemed unacceptable to the City, which requested a rehearing. Consequently, the City has reissued the same \$1.3 million claim, this time breaking down the claim into three separate amounts: (1) \$845,849.47, representing the refund of payments made to the state. The basis for this portion of the claim stems from the additional occupational use tax payments made by the City. The City argues that the 1987 amendment authorizing the payment of \$1.6 million to the city is not the only liability the state has incurred in total for the occupational tax suit by Burlington Northern. the city alleges that Burlington Northern brought suit again, for the years 1986–89, claiming that the amended occupational tax law violated the Railroad Revitalization and Regulatory Reform Act of 1976. Burlington Northern was again victorious in court. Consequently, Superior claims that in the time from 1986–89, 30% of all occupational tax payments total \$632,716. This amount plus the interest earnings on a compounded basis, which is equal to \$192,503, comes to a total of \$825,219. In addition, in the six months since the April Claims Board decision, there has been an additional \$20,630.47 in interest on the \$825,219 figure, resulting in what the City believes is a grand total of \$845,849.47, for this particular portion of the claim. (2) The second claim deals with the post-judgment interest rate. The City asserts that Burlington Northern went to the Supreme Court and won the changing of the interest rate from 5% to 12%. The difference of 7% is \$1,054,501.91, multiplied by 30%, for a total of \$316,350.57. (3) The final claim is for legal fees. The City claims that they have spent \$207,624.58 defending a statute that has benefited the state, and they wish to be compensated for such. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. (Chairman Alan Lee not participating.)

16. Laurie Beth Clark of Madison, Wisconsin claims \$1,057.50 for attorney fees incurred to obtain an appeal to the Wisconsin Arts Board. The claimant applied for a FY 95 Individual Artist Grant in the interdisciplinary arts category. On December 23, 1993, the Arts Board responded to her application, rejecting it on the grounds that her work was not appropriate for the interdisciplinary arts category. Neither the initial grant application nor the Arts Board's December 23 rejection letter informed the claimant of her rights to an appeal hearing. The claimant was out of town until January 16, 1994. She contacted the Arts board on January 24 to arrange a meeting to discuss her appeal rights. She met with the Executive Director on January 28. She was given a written copy of the appeal policy but was told that the 30 day time limit for appeal had already expired, therefore, there was nothing more that could be done. She hired an attorney, who attempted to secure an appeal hearing. In a letter dated March 11, 1994, the Chairperson of the Arts Board acknowledged that the claimant "did not have sufficient notice of our appeals procedure, and therefore might not have been compelled to notify us of her intent to appeal in a timely manner." The Arts Board granted the claimant's request for an appeal hearing. The claimant believes that the Arts Board violated Chapter 227 of the Wisconsin Statutes by denying her the right to a timely appeal and failing to notify her of her appeal rights. She asserts that the only way she could obtain an appeal hearing was through the use of legal counsel and requests reimbursement of her legal fees. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally

liable nor one which the state should assume and pay based on equitable principles.

17. James M. Peterson of Chippewa Falls, Wisconsin claims \$298.00 for replacement cost of personal printer and sheet feeder damaged while he was traveling on state business. The Claimant was traveling in a state vehicle when he was involved in an accident with another vehicle. The printer was thrown forward by the impact and destroyed, despite the fact it was enclosed in a padded bag. The removable sheet feeder was also destroyed. The Claimant requests reimbursement of \$229 for the printer and \$69 for the sheet feeder. The Board concludes the claim should be paid in the amount of \$298.00 based on equitable principles. the Board further concludes, under authority of s. 16.007(6m), Stats., payment should be paid from the Department of Corrections appropriation s. 20.410(1)(a), Stats.

18. the Bank of Luxemburg, Wisconsin claims \$975.00 for overpayment of Wisconsin Consumer Act Notification fees for the years 1989–1993. The claimant incorrectly included all consumer credit transactions when filling out the Consumer Act Notification Report form. Only those transactions under \$25,000 with an interest rate above 12% should have been reported. This error resulted in an overpayment of \$975. The Board concludes the claim should be paid in the amount of \$975.00 based on equitable principles. The Board further concludes, under the authority of s. 16.007(6m), Stats., payment should be made from the Commissioner of Banking appropriation s. 20.124(1)(g), Stats.

19. James Shallue of Manitowoc, Wisconsin claims \$195.98 for medical expenses and other costs related to injuries he sustained at the October 30, 1993, UW–Michigan football game at Camp Randall. At the end of the game, students rushed the field, resulting in a stampede which caused a number of spectators to be injured. The claimant's back was injured during the stampede. He requests reimbursement of: \$78.50 insurance deductible, \$3.94 postage for filing this claim, \$48.03 lost wages, \$5.70 for copies for filing this claim, and \$59.81 long distance charges. The Board concludes the claim should be paid in the amount of \$195.98 based on equitable principles. The Board further concludes, under the authority of s. 16.007(6m), Stats., payment should be made from the University of Wisconsin appropriation s. 20.285(4)(a), Stats.

20. Melissa A. Hill of Madison, Wisconsin claims \$435.00 for reimbursement of medical bills incurred at the University of Wisconsin Hospital and Clinics (UWHC). The claimant, who was a patient at Planned Parenthood, needed to have some testing done. She was not able to make an appointment at Planned Parenthood, because of conflicts with her work schedule and did not have health insurance. Planned parenthood contacted UWHC to schedule an appointment for the claimant. UWHC informed Planned Parenthood that the claimant could have the tests done at the "residents clinic", which would result in lower fees. The price quoted to Planned Parenthood was "\$40 plus biopsies" and UWHC said the total cost would be similar to what Planned Parenthood would charge for the same services (\$250). The claimant's UWHC bill totaled \$774: \$239 for hospital charges, \$330 for the attending physician, and \$270 for the physician who performed the biopsy. Planned Parenthood contacted UWHC on behalf of the claimant, questioning the bill. UWHC told Planned Parenthood that the claimant had been scheduled for a regular clinic visit, instead of a "residents clinic" visit. They also stated that the physicians could, at their discretion, lower their fees. The attending physician reduced his \$330 fee by 50%, however, the other physician would not lower his fee. The claimant has since learned that the test she had done is never performed by residents, but instead requires a regular clinic visit. The claimant believes that UWHC was negligent in suggesting that

a “residents clinic” visit would result in lower fees, since residents do not perform that test that she required. Furthermore, she believes that the UWHC’s quote of “\$40 plus biopsies” was extremely misleading. UWHC is well aware that “biopsies” include physician and laboratory fees which can total hundreds of dollars. The claimant believes that UWHC should have informed her that she would have to have a regular clinic visit, and that they should have fully disclosed to her the costs involved. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

21. Dana Gefer of Bronx, New York claims \$618.10 for medical expenses and other costs related to injuries she sustained at the October 30, 1993, UW–Michigan football game at Camp Randall. At the end of the game, students rushed the field, resulting in a stampede which caused a number of spectators to be injured. The claimant sustained a knee injury which required ambulance and hospital services. The claimant requests reimbursement for her uninsured medical expenses and also for the cost of her pants and boots which were damaged beyond repair. The Board concludes the claim should be paid in the reduced amount of \$500.00 based on equitable principles. The Board further concludes, under the authority of s. 16.007(6m), Stats., payment should be made from the University of Wisconsin appropriation s. 20.285(4)(a), Stats.

22. Dr. Gangadharan Nair of Green Bay, Wisconsin claims \$298.40 for medical expenses incurred due to an error in the 1994 Group Health Insurance Plans and Provisions booklet. The claimant is an employe of UW–Green Bay. During the 1994 open enrollment period, he switched health insurance to Blue Cross/Blue Shield based on the information provided in the 1994 Insurance Plans booklet distributed by UWGB. The booklet stated that drugs and biologicals were 100% covered by Blue Cross/Blue Shield. However, after the claimant switched insurers, it was discovered that the Insurance Plans booklet was in error, and Blue Cross only covered 80% of drugs and biologicals. The claimant was allowed to switch back to his previous insurer, but not before he had incurred \$298.40 of bills. The claimant never would have changed to a health insurance plan that did not cover 100% of drugs and biologicals, since he requires monthly injections. The Board concludes the claim should be paid in the amount of \$298.40 based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from University of Wisconsin appropriation s. 20.285(1)(a), Stats.

23. Judith Knoblauch of West Allis, Wisconsin claims \$20,493.58 for reimbursement of unemployment compensation taxes and business taxes collected by DILHR and DOR. The Claimant’s husband owned a roofing business which experienced financial difficulty. In order to keep the business going, the Claimant’s husband borrowed money from his mother’s estate. He was found guilty of fraud in a Vilas County court case. The court concluded that the Claimant had no responsibility in the fraud, since she was unaware of her husband’s actions, and because Wisconsin marital property law provides that spouses can not be held responsible for intentional torts committed by their partners. DOR withheld a \$1,203.06 income tax refund and applied it to outstanding business taxes. Further, the Claimant claims \$19,265.52 half of the proceeds from the sale of jointly owned property. The money from the sale (\$38,531.05) was taken by DOR and DILHR for payment of tax liabilities. The Claimant asserts that non payment of business and unemployment taxes is a tort committed by her husband, and therefore, she is not responsible for the liabilities incurred. The Board concludes there has been insufficient

showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

24. John C. Befus of Oshkosh, Wisconsin claims \$322.00 for reimbursement of damages related to an accident that occurred on July 1, 1994. The claimant, who is employed by DOR, was returning from a field audit in San Jose, CA. Upon boarding the airplane, he wished to place the state’s personal computer in the overhead storage compartment. In order to fit the computer in the compartment, he needed to rearrange one of the bags in the compartment. When he did so, the bag dislodged a video camera which the claimant was unable to see. The camera fell out of the storage compartment and was damaged. The owner of the camera sent the claimant an estimate for the repairs and the claimant paid him \$322.00. He requests reimbursement for this amount. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

25. Bryan E. Goff of West Bend, Wisconsin claims \$7,676.19 for reimbursement of 1982–83 income taxes. The Claimant left Wisconsin in 1979. In 1982 he moved to New Hampshire and worked as a welder in several states. He kept his Wisconsin driver’s license and auto registration for business purposes. New Hampshire does not have an income tax. In 1982 and 1983 he filed Wisconsin income tax returns claiming temporary living expenses as a business deduction. In 1986 the IRS determined that the Claimant could not take these deductions as Wisconsin resident, since New Hampshire was his “tax home”. The claimant re–filed his 1982 and 1983 Wisconsin income taxes without deducting the temporary living expenses. In December 1986 the Claimant received a notice from DOR stating that he owed income taxes for 1982 and 1983. He called the DOR and was told the notice was an error and to ignore it. For the next three years, the Claimant moved around, working in New Hampshire and Illinois. He did not receive any other notices from DOR. In 1989 he moved back to Wisconsin. From 1989–1993 the Claimant lived and worked in Wisconsin. He purchased a car, purchased a home, refinanced the home twice and paid Wisconsin income taxes. During this time he was never contacted by DOR. In September 1993 the Claimant received a delinquent tax notice from DOR for his 1982 and 1983 income taxes. He contacted the DOR to find out why they had not notified him earlier and was told that DOR had him listed under an incorrect Social Security Number. With the assistance of his accountant and attorney, the Claimant attempted to resolve the situation. He was offered a reduction in interest from 18% to 12% pursuant to section 2.87 of the Wisconsin Administrative Code. He finally paid the assessment, with the 6% reduction in interest in September 1994 when DOR threatened to garnish his wages. The Claimant disagrees that he was a Wisconsin resident during 1982 and 1983 simply because he had a Wisconsin driver’s license and auto registration. He did not live, work, or own property in Wisconsin, and the IRS determined that he was not a Wisconsin resident. If he was a Wisconsin resident, why was the DOR unable to contact him? Furthermore, if he was a Wisconsin resident, he would have been able to deduct the temporary living expenses. The Claimant also points to the fact that a 1984 delinquent tax assessment was also issued against him because he did not file 1984 Wisconsin income taxes. He contacted the DOR and, using his paycheck stubs, proved that he was not a Wisconsin resident. DOR agreed and withdrew the 1984 assessment. If he was not a resident for the purpose of his 1984 taxes, even though he still had Wisconsin driver’s license and auto registration, why would he be considered a resident for the

purpose of his 1982–83 taxes? The Claimant does not believe it is fair that the IRS can determine that he is not a Wisconsin resident, while the DOR can determine that he is a Wisconsin resident. Finally, the Claimant does not believe that he should be held responsible for any of the interest and penalties on the assessment, since it was DOR's error in his Social Security Number that caused the delay in notification. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

26. Walter F. Kahne of Sarasota, Florida claims \$364.08 for money seized from his checking account for payment of delinquent taxes. The Claimant moved to Florida in January 1979. In December 1994 he received a notice of a tax levy from DOR for 1979 taxes. The Claimant contacted DOR and explained that he had moved in January 1979 and, therefore, did not owe 1979 Wisconsin taxes. DOR asked the Claimant if he had ever filled out a change of residency form. The Claimant was unaware of such a form. DOR sent him one, and he filled it out and returned it immediately. The Claimant then received a statement showing the \$364.08 had been taken from his checking account. On February 1 he received a statement from DOR showing that he did not owe any taxes, however, he could not get a refund because the statute of limitations had expired. The Claimant asserts that the first notice he received was in December 1994. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

27. Debbie L. Casucci-Crave of Waterloo, Wisconsin claims \$200.00 for reimbursement of money lost while traveling in Mexico on Business for DATCP. The claimant was traveling by taxi to her hotel, however, the driver of the taxi was confused about the location of the hotel and dropped her off in a town square. She realized she was not in the right location and began to search for her Spanish-English dictionary and the address of the hotel. She got out of the cab, not realizing that she had left her coin purse containing \$200 in the cab. The coin purse apparently fell out of her bag when she was searching for her dictionary. She did not realize that the money was gone until she reached her hotel. She went back to the airport to the taxi company office to try and locate the cab. The driver was identified but never returned to the airport that night. Further attempts to locate the money were not successful. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

28. Townline Auto of Coleman, Wisconsin claims \$378.29 for vehicle damages related to chemical spraying for Gypsy Moths near the claimant's used car dealership. The spray adhered to a number of vehicles which required the claimant to either sand and/or wash the vehicles with a high-pressure sprayer and repaint them. The claimant requests \$199.50 for repairs to one vehicle, \$6179 for rental of the high-pressure sprayer, \$81.00 for labor costs to wash the vehicles (9 hours at \$9/hour), \$16.00 for long distance phone costs, and \$20 for time and gas spent picking up the rented sprayer. The claimant has attempted to resolve this claim with the contractor who conducted the spraying, however, the company will not respond to the claimant's letters or calls. The Board concludes the claim should be paid in the amount of \$378.29 based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the

Department of Agriculture, Trade and Consumer Protection appropriation s. 20.115(7)(q), Stats.

29. Katrine E. Sackett of Temple, Texas claims \$4,000.00 for emotional damaged, physical damages, and phone costs related to a rape which allegedly occurred in May 1979. At the time, the claimant was in the custody of Child Protective Services, in the foster home of Nancy Hansen. The claimant does not know the identity of the assailant, and the rape did not occur in Ms. Hansen's home. The claimant believes that she was inappropriately placed in the Hansen home. She feels that she required a stronger setting and that if she had been placed in a stricter environment she would not have been where she was when the rape occurred. She also asserts that the Health and Social Services has not kept correct records of the incident. She incurred \$1,400 of phone costs, trying to obtain the records regarding this incident. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

30. Margaret Cox of Neenah, Wisconsin claims \$50.00 for damage to her vehicle while it was parked on the grounds of Winnebago Mental Health Institute. On November 18, 1994, a branch fell from a tree in the employe parking area, damaging the windshield and hood of the claimant's car. The claimant contacted her insurance company, which in turn contacted Auto Glass Specialists to go replace the windshield. Auto Glass Specialists required the claimant to pay a \$50.00 deposit before they would start the work. The claimant has been informed by Winnebago's Buildings and Grounds Superintendent that the grounds crew had been in the process of removing the dead branches, but at the time of this incident, the project had not been completed. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

31. Margaret Cox of Neenah, Wisconsin claims \$250.00 for damage to her 1989 Honda Civic. On August 11, 1994, the claimant parked her vehicle behind the Administration Building at the Winnebago Mental Health Institute. When she left work, she noticed that the lower panel of her care was scratched on the driver's side. She called the security guard and filed a report. The claimant states that she had washed the car the previous day and knew that the scratches were not there at that time. The claimant has a \$250.00 insurance deductible. The Board concludes there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

The Board concludes:

1. The claims of the following claimants should be denied:

Jeffrey Stellings	City of Superior
Jerome Van Natta	Laurie Beth Clark
P & M Processing, Inc.	Melissa Hill
David & Edith Kinney	Judith Knoblauch
William Shomler	John C. Befus
Maurice & Karen Morley	Bryan E. Goff
Dan & Lynn Peerenboom	Walter Kahne
Raymond Koss	Debbie Cassucci-Crave
Northern Christmas Trees	Katrine Sackett
Carol J. Prasse	Margaret Cox
Ollie Charles	Margaret Cox
Erickson Oil Products, Inc.	

2. Payment of the following amounts to the following claimants is justified under s. 16.007, Stats.:

James M. Peterson	\$ 298.00
Bank of Luxemburg	\$ 975.00
James Shallue	\$ 195.98
Dana Gefter	\$ 500.00
Gangadharan Nair	\$ 298.40
Townline Auto	\$ 378.29

The Board recommends:

1. Payment of \$6,256.39 be made to Barbara Hestekin for expenses incurred as a result of the condemnation of her house by the Department of Transportation.

Dated at Madison, Wisconsin this 28th day of June, 1995.

JOSEPH LEEAN
Senate Finance Committee

BEN BRANCEL
Assembly Finance Committee

ALAN LEE
Representative of the Attorney General

EDWARD D. MAIN,
Representative of the Secretary of Administration

CHRISTOPHER GREEN
Representative of the Governor

**State of Wisconsin
Claims Board**

October 26, 1995

The Honorable, The Senate:

Enclosed is the report of the State Claims Board covering the claims heard on October 19, 1995.

The amounts recommended for payment under \$5,000 on claims included in this report have, under the provisions of s. 16.007, Stats., been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$5,000, if any, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,

EDWARD D. MAIN
Secretary

**State of Wisconsin
Claims Board**

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on October 19, 1995, upon the following claims:

<u>Claimant</u>	<u>Amount</u>
1. Yan Jin	\$ 509.77
2. Heather Rippl	\$ 670.00
3. Donald Harcus	\$ 11,000.00
4. Angel Louis Pagan	\$ 6,500.00
5. Anthony Bucaro	\$4,400,000.00
6. Scott Sickler	\$ 3,650.00
7. Kenneth Jasinski	\$ 50.00
8. Christine Brown	\$ 9,000.00

In addition, the following claims were considered and decided without hearings:

9. Theresa Gasser	\$60.00
10. Judith Sarbacker	\$50,000.00
11. Andrea Krueger	\$150.00
12. Wausau Insurance Companies	\$630.45
13. John Frank	\$1,061.77
14. Frank Henningfield	\$51.10
15. Ann Nesmith	\$121.00
16. Linda Suda	\$100.00
17. Anita Ryan	\$100.00
18. Franchise Finance Corporation	\$19,886.00
19. George N. Scheifen	\$123.38
20. Gospel Mennonite School	\$780.00
21. Clifford C. Hill	\$330.00
22. Arthur J. Fariole	\$850.00
23. William Sid DuPree	\$25,000.00
24. Sarah Laughlin	\$492.25
25. Dov Jelen	\$703.95
26. Annie Daniel	\$5,000.00

The Board Finds:

1. Yan Jin of Sturtevant, Wisconsin claims \$509.77 for vehicle repair due to damage that occurred at Southern Wisconsin Center on May 30, 1995. The claimant is an employe at SWC and her vehicle was parked in the appropriate parking lot. A number of residents were walking in the parking lot and one resident pushed another resident's wheelchair into the claimant's car, causing damage to the right front door. The claimant does not have insurance coverage for the damage. The claimant believes that damage was an indirect result of inadequate supervision of residents by SWC staff. Furthermore, she points to the fact that when a resident damages an employe's clothing or jewelry the employe is reimbursed. She believes this is a similar situation and that she should be compensated for the damage. The Board concludes, the claim should be paid in the reduced amount of \$100.00, based on equitable principles. The Board further concludes the claim should be paid from the Department of Health and Social Services appropriation s. 20.435 (2)(gk), Stats.

2. Heather Rippl of Madison, Wisconsin claims \$670.00 for replacement of a stolen bicycle. The claimant, a student at UW-Madison, locked her bicycle to a UW bicycle post near the Memorial Union on April 19, 1994. On April 20, the claimant discovered that her bicycle was missing and called the UW Police. The UW Police report indicates that it appears that the bicycle post was not firmly planted in the ground and that the thieves pulled out the post to get the bicycle. The report notes that several other posts were loose in the ground and that the stone walkway around the posts was broken up. The claimant believes the UW was negligent in not properly maintaining the bicycle posts and requests reimbursement for the cost of her bicycle. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

3. Donald Harcus of Brookfield, Wisconsin claims \$11,000.00 for overpayment of income taxes for the years 1989 and 1990. The claimant was delinquent in filing the taxes. DOR eventually issued a tax assessment and began collections through the claimant's employer. The claimant was working with a DOR agent to get the returns filed. The claimant was never informed that the \$11,000 that had already been taken from tax refunds and garnishment actions would not be returned. The DOR agents' notes indicate that she did not inform him the money would not be returned. The claimant

believes this was an improper action on the part of DOR, since the notice sent to his employer to begin garnishment indicated that any overpayment would be refunded. He requests reimbursement of the \$11,000 overpayment and interest. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

4. Angel Louis Pagan of Sturtevant, Wisconsin claims \$6,500.00 for damages related to an automobile accident. The claimant is a prisoner who was being transferred from Portage, WI to Waupun, WI. The transfer took place on February 22, 1994, during a snowstorm and the van slid off of the road and hit some rocks. The claimant suffered a laceration on his forehead and a bruised hip. There is a two and one-half inch permanent scar on the claimant's forehead from the laceration and he is still bothered by the contusion to his hip. The claimant believes that the driver of the van was going too fast for the weather conditions (50 mph). Furthermore, the claimant points to the police report which indicated that the driver failed to have control. The claimant requests \$6,500.00 for medical care of his scar. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. Anthony Bucaro of Portage, Wisconsin claims \$4,400,000.00 for pain and suffering, psychological and emotional damages related to the claimant's incarceration. In 1979, the claimant received a two year prison sentence and was committed to Green Bay Correctional Institution. The claimant was 25 years old at the time, however, because of a pituitary gland disorder (Kallmann's Syndrome), he had the physical appearance of a rather effeminate 16 year old. Due to his physical appearance the claimant has suffered continual harassment, sexual threats, and has been raped numerous times while incarcerated at both Green Bay Correctional and Kettle Moraine Correctional. The claimant believes that he has not been adequately protected from these assaults by the Department of Corrections. The claimant requested that his cell door be locked during the day, however, this was not allowed. He also was punished for refusing to shower for 2 and 1/2 months after he had been raped several times in the group showers. The claimant was eventually placed in Administrative Confinement in Lower Segregation for his protection. However, while so confined, he was treated like the prisoners who were there for disciplinary reasons. He was confined to his cell 24 hours a day, denied hot meals, personal property, legal materials and access to religious services. He was transferred between Green Bay Correctional and Kettle Moraine several more times and each time experienced assaults and harassment. In 1985, the Claimant filed a civil lawsuit against DOC (then H&SS), which was dismissed. The dismissal was upheld on appeal. The claimant requests compensation for the physical and psychological injuries that he has suffered as a result of being raped repeatedly while incarcerated at Green Bay Correctional and Kettle Moraine Correctional. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

6. Scott Sickler of West Bend, Wisconsin claims \$3,650.00 for a refund under the Wisconsin Fund Grant Program. In August 1991, the claimant's septic system was condemned and he was informed he needed to install a mound system. At that time, the DNR administered the Wisconsin Fund Grant

Program, a program to provide grants to cover some of the costs of private sewage system corrections. The claimant submitted the necessary paperwork for the grant program in October 1991. He was told by the Washington County Land Use and Parks Department that he would be eligible for a grant of \$3,800. In January 1992, the claimant was notified by Washington County that there had been changes in the program as part of the 1991 budget bill. The program was transferred from DNR to DILHR and the qualification requirements had also changed. Washington County did not receive information from DILHR on the changes until December 1991. Washington County said that DILHR had told them that the changes had to be applied to any application which had been received after August 15, 1991. Under the new qualification guidelines, the claimant was only eligible for a grant of \$275. The claimant believes the state was negligent in not notifying Washington County until December 1991. He also feels that DILHR and DNR were negligent in not directly contacting the eligible claimants who had applied for the grant program. The claimant requests that he receive the higher grant amount of \$3,800, minus the \$150 processing fee, for a total award of \$3,650. The Board concludes the claim should be paid in the reduced amount of \$75.13, based on equitable principles. The Board further concludes the claim should be paid from Claims Board appropriation s. 20.505 (4)(d), Stats.

7. Kenneth Jasinski of Elkhorn, Wisconsin claims \$ 50.00 for vehicle damages caused by unknown vandals while the car was parked at the Wisconsin School for the Blind. It appears that someone struck the vehicle with stones and a piece of steel, damaging the windshield, hood, doors and roof. The claimant has a \$50 insurance deductible. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Christine Brown of Milwaukee, Wisconsin claims \$9,000.00 for medical damages and pain and suffering incurred due to an accident at State Fair Park. On August 14, 1994, the claimant was walking in the area of the north infield gate at State Fair Park. The claimant suffers from multiple sclerosis and uses a cane to assist her in walking. The claimant tripped on a metal stake that was sticking out of the ground and fell on her face, puncturing a front tooth, cutting her lip, and bruising various areas of her body. Where the stake was placed in the ground, there was no gate, fence or protective surrounding. There were two other stakes in the immediate area. When the State Fair Park Police arrived they pounded all three stakes into the ground and called an ambulance for the claimant. The claimant has incurred bills of: \$308.26 general medical, \$969.00 dental, and \$1,651.00 chiropractic. The claimant's bills total \$2,928.26. Her insurance has paid \$378.26. The claimant requests payment of \$9,000 to cover her medical bills and compensate her for pain and suffering. The Board concludes the claim should be paid in the reduced amount of \$2,250.00 based on equitable principles. The Board further concludes the claim should be paid from Wisconsin State Fair Park appropriation s. 20.190 (1)(h), Stats.

9. Theresa M. Gasser of Madison, Wisconsin claims \$60.00 for medical bills incurred due to an error in assigning the effective date for her health insurance. On accepting employment with the UW, the claimant also elected to change insurers. Her coverage with her new insurer began on May 1, 1994, but she was incorrectly told by the UW that her new coverage began on July 1, 1994. On June 11, 1994, the claimant's husband received medical services from their previous health care provider, believing that their coverage with that insurer was effective until July 1, 1994. The former insurer rejected payment because the new coverage was in

effect on May 1, 1994. The claimant requests reimbursement of the \$60.00 she paid for medical treatment. The Board concludes the claim should be paid based on equitable principles. The Board further concludes the claim should be paid from University of Wisconsin appropriation s. [20.285 \(1\)\(kb\)](#), Stats.

10. Judith Sarbacker of Portage, Wisconsin claims \$50,000.00 for loss of society and companionship related to the death of her husband. The claimant's husband was admitted to UW hospital on June 25, 1991, with Acute Gastrointestinal Hemorrhage. When the claimant arrived at the hospital, she was told that her husband had a hole in his esophagus, but that he was in stable condition. Later that evening, the claimant's husband told the nurse he wanted some water. She refused, but after he persisted, she gave him a cup of shaved ice chips. He sucked on the ice and then began to cough and spit up blood. Twenty minutes later a surgeon arrived and the claimant's husband was rushed to surgery. He died at 10:32 that evening. The claimant sued the UW Hospital but the case was dismissed. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

11. Andrea Krueger of Appleton, Wisconsin claims \$150.00 insurance deductible for medical costs incurred as a result of an accident at the UW-Whitewater theater. The claimant was a cast member in a production at the UW. During a rehearsal, the claimant was walking up a staircase which was part of the set. As she stepped on the top stair, the staircase disconnected from the platform to which it was attached, causing the claimant to fall 8-10 feet to the floor below. The claimant was transported by ambulance to the emergency room where she was treated for cuts and bruises and examined for broken bones and internal injuries. The claimant believes the set was not properly constructed and requests reimbursement of her \$150 insurance deductible. The Board concludes the claim should be paid based on equitable principles. The Board further concludes the claim should be paid from University of Wisconsin appropriation s. [20.285 \(1\)\(h\)](#), Stats.

12. Wausau Insurance Companies of Wausau, Wisconsin claims \$ 630.45 for subrogation damages related to injuries sustained by the claimant's insured, James Shallue, at the October 30, 1993 UW-Michigan football game at Camp Randall. At the end of the game, students rushed the field, causing a stampede during which a number of spectators were injured. The claimant's insured was among those injured. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

13. John W. Frank of Madison, Wisconsin claims \$1,061.77 for vehicle damages related to an incident on April 11, 1995. The claimant is employed by the Educational Communications Board as a Radio Maintenance Engineer. He was working at a radio tower that is under construction when ice fell from the tower and damaged his truck. Although the claimant is employed by the ECB, the tower is owned by the University of Wisconsin. The repair total was \$1,061.77 and the claimant has a \$1,000 insurance deductible. The Board concludes the claim should be paid in the reduced amount of \$500.00, based on equitable principles. The Board further concludes the claim should be paid from University of Wisconsin appropriation s. [20.285 \(1\)\(a\)](#), Stats.

14. Frank Henningfield of Burlington, Wisconsin claims \$51.10 for damage to a bus window related to an incident at Southern Wisconsin Center. The claimant was transporting

patients from the center. While they were boarding the bus, one of the patients banged his head on the bus window, breaking the window. The claimant requests reimbursement of the cost to replace the window. The damage was not covered by the claimant's insurance. The Board concludes the claim should be paid based on equitable principles. The Board further concludes the claim should be paid from Department of Health and Social Services appropriation s. [20.435 \(2\)\(gk\)](#), Stats.

15. Ann Nesmith of Neenah, Wisconsin claims \$121.00 for auto repairs and car rental costs related to an incident at Winnebago Mental Health Institute. On May 13, 1995, the claimant's vehicle was parked in the Winnebago parking lot. On May 14, 1995, the claimant discovered a long scratch down the side of her van. The claimant believes the damage was caused by a patient at WMHI, and may possibly be related to a confrontation she had with two patients on May 13, 1995. She requests reimbursement for her insurance deductible (\$100), and for a 2 day car rental (\$21). The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

16. Linda Suda of Appleton, Wisconsin claims \$100.00 for reimbursement of vehicle repair and towing costs incurred due to an accident on December 15, 1994. The claimant is an employe of Winnebago Mental Health Institute. She was instructed by her supervisor to attend a leadership class sponsored by H & SS in Madison. She chose to drive her personal vehicle to the class in order to keep the WMHI vehicle available for patient use. While traveling on Highway 151, an oncoming vehicle crossed the yellow line into the claimant's lane. The claimant swerved to avoid the vehicle and ended up in a ditch. She was unable to get her car out and had to have it towed. Either during the accident or as a result of the towing, a CV boot on the claimant's car was damaged. The car repairs came to \$138.58 and the towing cost \$40.00. The claimant is requesting reimbursement of her \$100.00 insurance deductible. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

17. Anita L. Ryan of Delavan, Wisconsin claims \$100.00 for vehicle damages incurred on August 8, 1995. The claimant is employed at the Wisconsin School for the Deaf. On August 8, 1995, she was instructed to move her car, which was parked near the WSD powerhouse, to the parking area in front of the dorm. The claimant moved the car at approximately 2 p.m. The claimant then left WSD later that day to travel to a conference in Minnesota. The claimant did not take her personal vehicle. At approximately 6 p.m. on August 8, the claimant's husband picked up the car from WSD and noticed that there were two scrapes on the right side of the car. The claimant has received two repair estimates: \$486.99 and \$620.55. The claimant's insurance deductible is \$100.00. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

18. Franchise Finance Corporation of America of Scottsdale, Arizona claims \$19,886.00 for overpayment of fees related to the filing of the claimant's 1995 Foreign Corporation Annual Report. The claimant incorrectly reported paid-in capital as \$783,053,466 and paid a fee of \$66,544 based on that amount. The correct amount of paid-in capital is \$549,168,000. This amount would have resulted in a fee of \$46,658. The claimant filed articles of correction with the Secretary of State when the error was discovered. The claimant requests

reimbursement of the difference between the two fees. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

19. George N. Scheifen of Milwaukee, Wisconsin claims \$123.38 for refund of interest and penalties assessed on his 1993 sales tax return. The claimant, a first time business owner, did not receive his sales tax report form for 1993 because the Department of Revenue had him listed under an incorrect address. When he filed his personal income tax returns, the error was discovered and the claimant filed his sales tax return. The claimant was assessed penalties and interest because of the late filing. On August 2, 1994, the claimant received a delinquent tax notice for payment of the interest and penalties. The claimant's accountant contacted the DOR and protested that the interest and penalties were excessive. Ross Brown, a DOR revenue agent, agreed with him and said that he would take care of it. On October 3, 1994, the claimant received another delinquent tax notice. The claimant's accountant again contacted Mr. Brown at DOR, who seemed surprised that the problem was not yet cleared up. Mr. Brown again assured the accountant that he would take care of it. The claimant received delinquent tax notices again in November and December of 1994. In December Mr. Brown told the claimant that it was impossible to remove the interest and penalties from the computer at his end. He suggested that the claimant pay the \$123.38 and request a refund. The Board concludes the claim should be paid in the reduced amount of \$67.89, based on equitable principles. The Board further concludes the claim should be paid from Claims Board appropriation s. [20.505 \(4\)\(d\)](#), Stats.

20. Gospel Mennonite School of Almena, Wisconsin claims \$780.00 for costs involved in testing the school's drinking water for pesticides. In March 1995, the school received "form 1" from the DNR. This form indicated that the school needed to test their drinking water for pesticide contamination. One week later, the school received "form 2" which omits the pesticide test requirement. The school contacted the DNR and asked if they needed to perform the test. The DNR indicated that since the first form had a more recent date, they should have the test done. On March 28, the school sent a water sample to a laboratory for the test. On April 10, they received a call from the DNR saying that "form 1" was incorrect, and that the test was not needed. The school contacted the laboratory, but the test had already been run. The claimant requests reimbursement for the \$780.00 lab fee. The Board concludes the claim should be paid based on equitable principles. The Board further concludes the claim should be paid from Department of Natural Resources appropriation s. [20.370 \(2\)\(ma\)](#), Stats.

21. Clifford C. Hill of St. Germain, Wisconsin claims \$330.00 for compensation for lost glasses. The claimant is a Limited Term Employee at the State Fish Hatchery in Woodruff, WI. While performing his duties, he accidentally hit himself alongside the head with a pole handle attached to the net he was using. His eyeglasses were knocked off and carried away. The Hatchery Supervisor approved reimbursement for the claimant, however, his claim was later denied because he is an LTE. He requests \$330 to cover the cost of his glasses, which are not covered by his insurance policy. The Board concludes the claim should be paid in the reduced amount of \$100.00, based on equitable principles. The Board further concludes the claim should be paid from Department of Natural Resources appropriation s. [20.370 \(1\)\(mu\)](#), Stats.

22. Arthur J. Fariole of Plymouth, Wisconsin claims \$850.00 for back pay and overtime pay related to his job at Kettle Moraine Correctional Institute. The claimant, an inmate at KMCI, has a job sweeping floors in the housing unit in which he resides. The claimant states that he has worked 15 hours per day, 7 days per week for the past 18 months but has only been paid for 6 hours of work per day on weekdays and 5 hours of work per day on weekends. The claimant points to the Administrative Code which states that "Full-time program assignments other than vocational training and school are equivalent to 8 hours a day" [DOC 309.55 (6) (d)]. Therefore, the claimant believes that he is entitled to be paid 8 hours per day and requests \$850.00 for back wages. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

23. William Sid DuPree of Oshkosh, Wisconsin claims \$25,000.00 for compensation under s. [755.05](#), Stats., for innocent convicts. The claimant was arrested on August 22, 1984, by the Beloit Police Department and charged with misdemeanor battery as a repeater. The case was prosecuted by A.D.A. Kate Buker. The claimant was convicted by a jury and sentenced to three years in prison on September 13, 1987. The claimant appealed his conviction and the case was reversed and remanded in July 1988. The Rock County District Attorney's office did not re-prosecute the claimant and in 1992 the case was dismissed for failure to prosecute. The appeals court found that the trial court had abused its discretion when admitting evidence of the claimant's past convictions. The trial court had ruled that all 23 of the claimant's past convictions were admissible. The appeals court ruled that many of them were extremely old and should not have been admitted. Because there was no evidence corroborating the testimony of either the claimant or his alleged victim, their credibility was the critical issue and the large number of prior convictions admitted into evidence may have influenced the jury and damaged the claimant's credibility. The claimant points to the fact that the trial judge stated on the record that he believed much of the claimant's testimony. The claimant states that he did not commit battery against the alleged victim. He states that she was grabbing at him in an attempt to initiate sexual activity and that he resisted and rejected her advances. The claimant believes that she attempted to have sex with him in order to later accuse him of rape or that she wanted to kill him and claim that she had acted in self defense because he had raped her. The claimant requests the maximum compensation of \$25,000. The Board concludes the claimant has not shown by clear and convincing evidence that he was innocent of the crime for which he was imprisoned and, therefore, the claim is denied.

24. Sarah Laughlin of Ellsworth, Wisconsin claims \$492.25 for uninsured medical expenses resulting from an accident at the Sellery Hall dormitory at UW-Madison. The fire extinguisher on the seventh floor hall of the dormitory was broken and a piece of metal was protruding from the case. The claimant fell against the case and seriously cut her hand on the protruding metal. Her medical bills totaled \$492.25 and were not covered by health insurance. Health insurance is made available to all UW students prior to enrollment. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

25. Dov Jelen of Chicago, Illinois claims \$703.95 for uninsured medical expenses resulting from an accident at the UW-Madison Art School. The claimant is an art student at the UW. He was helping unload some large sheets of steel for the

Art Department when one of the sheets slid loose and cut the claimant's arm. The wound was very severe and accompanied by much loss of blood. The claimant was taken by ambulance to the UW Hospital Emergency Room, where he received treatment. The claimant does not have health insurance. It is not clear whether or not the claimant was specifically instructed to help unload the metal sheets. However, the claimant is part of a group of students who are granted 24 hour access to the art studio. Students with this access are generally expected to help with the maintenance of the studio and to assist whenever necessary with the operation of the studio. It was in this context that the claimant was assisting with the unloading of the sheet metal and was injured. The Board concludes the claim should be paid in the reduced amount of \$350.00 based on equitable principles. The Board further concludes the claim should be paid from University of Wisconsin appropriation s. 20.285 (1)(a), Stats.

The Board concludes:

1. The claims of the following claimants should be denied:

Heather Rippl	Donald Harcus
Angel Louis Pagan	Anthony Bucaro
Kenneth Jasinski	Judith Sarbacker
Wausau Insurance Co.	Ann Nesmith
Linda Suda	Anita Ryan
Franchise Finance Corporation	Arthur J. Fariole
William Sid DuPree	Sarah Laughlin

2. Payment of the following amounts to the following claimants is justified under s. 16.007, Stats.:

Yan Jin	\$ 100.00
Scott Sickler	\$ 75.13
Christine Brown	\$ 2,550.00
Theresa Gasser	\$ 60.00
Andrea Krueger	\$ 150.00
John Frank	\$ 500.00
Frank Henningfield	\$ 51.10
George N. Scheifen	\$ 67.89
Gospel Mennonite School	\$ 780.00
Clifford C. Hill	\$ 100.00
Dov Jelen	\$ 350.00

Dated at Madison, Wisconsin this 25th day of October, 1995.

TIMOTHY WEEDEN
Senate Finance Committee

BEN BRANCEL
Assembly Finance Committee

ALAN LEE
Representative of the Attorney General

EDWARD D. MAIN,
Representative of the Secretary of Administration

STEWART SIMONSON
Representative of the Governor

**State of Wisconsin
Office of the Secretary of State**

To the Honorable, the Senate:

<u>Bill, Joint Resolu- tion or Resolution Number</u>	<u>Act Number or Enrolled Number</u>	<u>Publication Date</u>
--	--	-------------------------

Senate Bill 266	Wisconsin Act 60	November 7, 1995
------------------------	------------------	------------------

Sincerely,
DOUGLAS LA FOLLETTE
Secretary of State

**State of Wisconsin
Ethics Board**

October 24, 1995

To the Honorable the Senate:

At the direction of s. 13.685(7), Wisconsin Statutes, I am notifying you of changes in the Ethics Board's records of licensed lobbyists and their employers.

Organization's authorization of additional lobbyists:

The following organizations previously registered with the Ethics Board as employers of lobbyists have authorized to act on their behalf these additional licensed lobbyists:

Fire Fighters of Wisconsin, Professional
Strohl, Joseph

PrimeCare Health Plan
Tries, John

RAM Center, Inc.
O'Connor, Alice

Solid Wastes Management Assn, National
Hilbert, Lisa

Organization's termination of lobbyists:

Each of the following organizations previously registered with the Ethics Board as the employer of a lobbyist has withdrawn, on the date indicated, its authorization for the lobbyist identified to act on the organization's behalf.

Manufacturers & Commerce, Wisconsin
Theo, Peter 10/20/95

Milwaukee Brewers Baseball Club
Selig-Prieb, Wendy 10/23/95

Selig, Allan 10/23/95

Prieb, Laurel 10/23/95

Hackett, Richard 10/23/95

Bablitch, Stephen 10/23/95

Jentz, Robert 10/23/95

Klauser, David 10/23/95

Bando, Salvatore 10/23/95

Pharmacists Assn, Wisconsin

Theo, Peter 10/23/95

Also available from the Wisconsin Ethics 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 the organizations that employ lobbyists.

Sincerely,
R. ROTH JUDD
Executive Director

**State of Wisconsin
Ethics Board**

October 31, 1995

To the Honorable the Senate:

At the direction of s. 13.685(7), Wisconsin Statutes, I am furnishing you with the name of an organization recently registered with the Ethics Board that employs one or more individuals to affect state legislation or administrative rules, and notifying you of changes in the Ethics Board's records of licensed lobbyists and their employers. For the recently registered organization I have included the organization's description of the general area of legislative or administrative action that it attempts to influence and the name of each licensed lobbyist that the organization has authorized to act on its behalf.

Organization recently registered:

Below is the name of an organization recently registered with the Ethics Board as employing one or more individuals to affect state legislation or administrative rules.

Pupil Services Assn, Wisconsin Federation of

We are concerned about areas that affect the delivery of Pupil Services in the public schools, including budgeting, staffing, curriculum and related areas.

Buckley, James

Organization's authorization of additional lobbyists:

The following organizations previously registered with the Ethics Board as employers of lobbyists have authorized to act on their behalf these additional licensed lobbyists:

CARE CPA

Stenger, Scott

Dental Management Services, Inc

Tries, John

Primary Health Care Assn, Wisconsin

Wall, Mari

Organization's termination of lobbyists:

Each of the following organizations previously registered with the Ethics Board as the employer of a lobbyist has withdrawn, on the date indicated, its authorization for the lobbyist identified to act on the organization's behalf.

CARE CPA

Theo, Peter 10/19/95

Effective Property Tax Relief, Wisconsin Coalition for

Theo, Peter 10/24/95

Metropolitan Milwaukee Assn of Commerce

Stitt, Don 10/24/95

Chnelich, Joe 10/24/95

Hagerup, Chris 10/24/95

Also available from the Wisconsin Ethics 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 the organizations that employ lobbyists.

Sincerely,

R. ROTH JUDD
Executive Director

**State of Wisconsin
Department of Development**

October 25, 1995

The Honorable, The Senate:

Pursuant to s. 560.55(2), Wisconsin Statutes, the Department of Development is required to submit an evaluation of the effectiveness of entrepreneurial programs and intermediary assistance programs administered in Wisconsin.

I am respectfully submitting the attached Evaluation of Wisconsin's Entrepreneurial Assistance Network 1995 Report to the Legislature in the manner provided in s. 13.172(3), Wisconsin Statutes. If you have any question concerning the report, please contact Hampton Rothwell at 608/267-0313. To request additional copies of the report, contact Hampton Rothwell or Pat Spies at 608/264-6141.

Sincerely,

WILLIAM J. MCCOSHEN
Secretary

**State of Wisconsin
Department of Development**

October 31, 1995

The Honorable, The Senate:

Section 560.905(2), Wisconsin Statutes, requires the Department of Development to provide a report on the Department's activities involving science and technology issues relating to economic development.

Pursuant to the process outlined in s. 13.172(3), stats., I am respectfully submitting the attached annual report Technology-Based Economic Development Activities for the period July 1, 1994 to June 30, 1995. If you have any questions concerning the report please contact Louie Rech at 267-9382, or to obtain copies, please contact Bev Haberman in our Division of Policy and Information at 608/266-5381.

Sincerely,

WILLIAM J. MCCOSHEN
Secretary

**State of Wisconsin
Department of Development**

October 25, 1995

The Honorable, The Senate:

Section 560.07(9), Wisconsin Statutes, requires the Department of Development to provide a report stating the net jobs gain due to the funds provided forward Wisconsin, Inc., under s. 20.143(1)(bm).

I am respectfully submitting the attached 1995 Annual Report forward momentum. Be advised that copies have been sent directly to legislators by Forward Wisconsin. If you have any questions concerning the report distribution, please contact Bev Haberman in our Division of Policy and Information at 608/266-5381.

Sincerely,

WILLIAM J. MCCOSHEN
Secretary

**State of Wisconsin
Office of the Commissioner of Insurance**

August 1995

The Honorable, The Legislature:

Pursuant to section 153.10(1), Wis. Stat., we are pleased to submit to the Governor and to the Legislature the quarterly Health Care Data Report. This report is based on hospital inpatient discharge data reported to the Office of Health Care Information by all operating general medical-surgical and

specialty hospitals in Wisconsin for the third quarter of 1994. It also contains selected ambulatory surgery utilization and charge data from general medical–surgical hospitals and freestanding ambulatory surgery centers in Wisconsin during the same quarter.

This report fulfills the statutory requirement to report “*in a manner that permits comparisons among hospitals... the charges for up to 100 health care services or diagnostic–related groups selected by the office.*”

Sincerely,

JOSEPHINE W. MUSSER
Commissioner of Insurance

TRUDY A. CARLSON, PH.D., DIRECTOR
Office of Health Care Information

**State of Wisconsin
Office of the Commissioner of Insurance**

September 1995

The Honorable, The Legislature:

Pursuant to section 153.10(1), Wis. Stat., we are pleased to submit to the Governor and to the Legislature the quarterly **Health Care Data Report**. This report is based on hospital inpatient discharge data reported to the Office of Health Care Information by all operating general medical–surgical and specialty hospitals in Wisconsin for the fourth quarter of 1994. It also contains selected ambulatory surgery utilization and charge data from general medical–surgical hospitals and freestanding ambulatory surgery centers in Wisconsin during the same quarter.

This report fulfills the statutory requirement to report “*in a manner that permits comparisons among hospitals... the charges for up to 100 health care services or diagnostic–related groups selected by the office.*”

Sincerely,

JOSEPHINE W. MUSSER
Commissioner of Insurance

TRUDY A. CARLSON, PH.D., DIRECTOR
Office of Health Care Information

**State of Wisconsin
Legislation Audit Bureau**

October 25, 1995

The Honorable, The Legislature:

We have completed a review of the State’s use of outside legal counsel and service. Agencies engage private attorneys when the Office of the Attorney General is unable to provide representation and for other purposes, such as consultation, legal advice, and teaching. In fiscal year 1994–95, the State spent an estimated \$3.18 million on outside legal counsel and services.

Oversight of the use of private attorneys, as any other contracted service, is essential to ensure that the contracts are necessary and appropriate and that costs are monitored. Overall, it appears that most agencies have attempted to use private attorneys appropriately, and some costs and contracts are currently monitored by the Office of the Governor and the Department of Justice. However, nearly two–thirds of expenditures are paid directly from agency budgets, and there is significant variation among agencies in interpreting the statutes and procedures that govern the use of private attorneys and the reasons for which they should be engaged.

Based on our review of efforts in the private sector and other states, we have identified a number of steps the State can take to improve the consistency and quality of oversight to prevent potential problems. First, the Governor’s office should provide

more specific definitions and guidance to executive branch agencies on when and how private attorneys should be engaged. In addition, cost reporting for contracts should be improved. Finally, guidelines for developing standard contracts that stipulate allowable costs, rates, billing formats, and case monitoring should be developed.

We appreciate the courtesy and cooperation extended to us by staff at the Office of the Governor, the Department of Justice, and other agencies that we contacted during the course of the audit. Responses from the Office of the Governor and the Department of Justice are appendices III and IV.

Sincerely,

DALE CATTANACH
State Auditor

**State of Wisconsin
Legislative Audit Bureau**

October 31, 1995

The Honorable, The Legislature:

We have completed an evaluation of the Department of Corrections’ inmate transportation system. Each month, the Department transports 37 percent of all inmates in its custody, primarily for reassignment from one institution to another and to provide inmates with off–site medical services. We estimate annual costs for vehicles and actual staff time spent transporting inmates are approximately \$2.26 million.

The Department has an excellent safety record in transporting inmates, with only one serious escape incident in the last ten years. Nevertheless, as the number of inmates has grown and the State has built more correctional facilities, managing transportation services has become more complex and costly. The Department has taken some actions to increase efficiency by attempting to reduce staff overtime and by partially centralizing transportation services. However, further efficiencies are possible by establishing standard transportation systems for both interfacility and medical transfers. By scheduling trips in advance and following standard routes, we estimate the Department could reduce interfacility trip costs by between 34.1 and 38.0 percent and medical trip costs by between 20.7 and 22.0 percent, while maintaining current safety levels.

In addition to saving through greater efficiency, the Department can also achieve reduced transportation costs by decreasing the demand for trips. We have identified options for the Department to limit the number of referrals for off–site medical care that require transportation. These include expanded screening and prior approval of off–site referrals, expanded use of currently available tele–medicine technology, and careful exploration of privatization options.

A separate, detailed management letter describing our recommendations and options for restructuring the existing transportation system has been delivered to the Department and is available upon request.

We appreciate the courtesy and cooperation extended to us by Department of Corrections staff. The Department’s response is the appendix.

Sincerely,

DALE CATTANACH
State Auditor

**State of Wisconsin
Recycling Marketing Development Board**

October 26, 1995

The Honorable, The Legislature:

The Recycling Market Development Board submits this strategic plan to the Wisconsin Legislature in fulfillment of ss.159.41 of the Wisconsin Statutes. This plan is delivered to the

Chief Clerk in each House of the Legislature per the requirements in ss. 13.172(3), Wisconsin Statutes.

Landfill and incineration bans on certain recoverable items in the municipal solid waste stream were enacted by 1989 Wisconsin Act 335, also known as the “recycling law”. 1993 Wisconsin Act 75 created the Recycling Market Development Board (RMDB) to coordinate market development activities for these recovered materials. The legislated purpose of the RMDB is to promote the development of sustainable, high-value markets for recovered materials on behalf of, and in cooperation with waste generators, and to promote the orderly and efficient marketing of these materials.

The 1995–97 Biennial Budget directed the RMDB to prepare a strategic plan to “guide the development and implementation of the board’s activities” (ss.159.41 Wisconsin Statutes). The Board has fulfilled the statutory requirement in preparing its strategic plan. This plan sets forth measurable goals, a priority list of materials for funding, project funding criteria, as well as action plans for the high ranking materials on the priority list. Additionally, the plan denotes the relationships between the RMDB, business, industry, and government.

The planning process was very thorough. Over one hundred representatives from recycling businesses, the recycling industry, and state and local government all participated in the strategic planning process, offering information through interviews, feedback sessions, and public comment. Market and material studies were also conducted to obtain the most reliable data available.

The Recycling Market Development Board respectfully submits its strategic plan for dispersal to the appropriate standing committees of the Wisconsin Senate.

Sincerely,

GAIL MILLER WRAY
Executive Director

EXECUTIVE COMMUNICATIONS

State of Wisconsin Office of the Governor

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint BEHNKE, HERBERT F., of Shawano, as a member of the Natural Resources Board, to serve for the term ending May 1, 2001.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Environment and Energy**.

State of Wisconsin Office of the Governor

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint BLAUBACH, LORRAINE M., of Thiensville, as a member of the Wisconsin Professional

Baseball Park District Board, to serve for the term ending July 1, 1997.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Business, Economic Development and Urban Affairs**.

State of Wisconsin Office of the Governor

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint BUSALACCHI, FRANK, of Milwaukee, as a member of the Wisconsin Professional Baseball Park District Board, to serve for the term ending July 1, 1997.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Business, Economic Development and Urban Affairs**.

State of Wisconsin Office of the Governor

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint LEHMAN, MICHAEL, of Hartford, as a member of the Wisconsin Professional Baseball Park District Board, to serve for the term ending July 1, 1999.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Business, Economic Development and Urban Affairs**.

State of Wisconsin Office of the Governor

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint LEIPOLD, CRAIG L., of Racine, as a member of the Wisconsin Professional Baseball Park District Board, to serve for the term ending July 1, 1997.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Business, Economic Development and Urban Affairs**.

State of Wisconsin Office of the Governor

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint MEYER, GEORGE, of Madison, as Secretary of the Department of Natural Resources, to serve for the term ending at the pleasure of the Governor.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Environment and Energy**.

**State of Wisconsin
Office of the Governor**

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint PAYNE, ULICE, JR., of Milwaukee, as a member of the Wisconsin Professional Baseball Park District Board, to serve for the term ending July 1, 1999.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Business, Economic Development and Urban Affairs.**

**State of Wisconsin
Office of the Governor**

October 20, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint SMITH, BILL G., of Madison, as a member of the Prison Industries Board, to serve for the term ending May 1, 1997.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **State Government Operations and Corrections.**

**State of Wisconsin
Office of the Governor**

October 20, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint STRUCK, PATRICIA D., of Madison, as Commissioner of Securities, to serve for the term ending July 1, 1996.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Education and Financial Institutions.**

**State of Wisconsin
Office of the Governor**

October 26, 1995

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint TRUNZO, ROBERT N., of Delafield, as a member of the Wisconsin Professional Baseball Park District Board, to serve for the term ending July 1, 1999.

Sincerely,

TOMMY G. THOMPSON
Governor

Read and referred to committee on **Business, Economic Development and Urban Affairs.**

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

**State of Wisconsin
Revisor of Statutes Bureau**

November 1, 1995

To the Honorable, the Senate:

The following rules have been published:

Clearinghouse Rules	Effective Date(s)
94- 71	November 15, 1995
94-110	November 1, 1995
95- 37	November 1, 1995
95- 40	November 1, 1995
95- 44	November 1, 1995
95- 52	November 1, 1995
95- 68	November 1, 1995
95- 83	November 1, 1995
95- 89	November 1, 1995
95- 92	November 1, 1995
95- 96	November 1, 1995
95- 99	November 1, 1995

Sincerely,
GARY L. POULSON
Deputy Revisor

Senate Clearinghouse Rule 95-004

Relating to the requirements for continuing chiropractic education for chiropractors and specifying criteria for approval of programs for continuing education credit.

Submitted by Department of Regulation and Licensing.
Report received from Agency, October 27, 1995.

Referred to committee on **Health, Human Services and Aging**, November 01, 1995.

Senate Clearinghouse Rule 95-049

Relating to requirements for patient medical records.

Submitted by Department of Regulation and Licensing.
Report received from Agency, October 26, 1995.

Referred to committee on **Health, Human Services and Aging**, November 01, 1995.

Senate Clearinghouse Rule 95-079

Relating to adult family homes licensed for three or four residents.

Submitted by Department of Health and Social Services.
Report received from Agency, October 30, 1995.

Referred to committee on **Health, Human Services and Aging**, November 01, 1995.

AMENDMENTS OFFERED

Senate amendment 1 to **Senate Bill 293** offered by Senator Petak.

Senate amendment 1 to **Senate Bill 367** offered by Senator Fitzgerald.

**MOTIONS UNDER SENATE RULE 98
for the Month of October 1995**

A certificate of commendation by Senator Petak for Cameron Lee Cooper on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of commendation by Senator Petak for Robert Charles Law on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of commendation by Senator Petak for Travis James Mast on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Drzewiecki for Edwin and Florence Hilbert on the occasion of celebrating their 50th Anniversary.

A certificate of commendation by Senator Huelsman for Donald Fundingsland on the occasion of receiving the Don Richards Leadership Award.

A certificate of commendation by Senator Weeden for Everett C. Haskell for his unceasing service to Beloit.

A certificate of congratulation by Senator Moen for the City of Mondovi on the Grand Opening of the Roger Marten Senior Citizen/Community Center.

A certificate of commendation by Senator Drzewiecki for the Marinette Kiwanis Club for their 75 years of service and dedication to the citizens of Marinette.

A certificate commendation by Senator Rude for Jerry Ziegler, Tracy Stamm, Sue Varco, Charlie Karpelenia, Sherry Leckwee, Kim Nelson, Elise Overheu, Ginny White and the rest of the Central Fleet office and garage staff for their extraordinary effort during the 1995 National Conference of State Legislatures Annual Meeting.

A certificate of commendation by Senator Rude for Mr. Ruey-Hsian Lin for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. Joe Chii-Day Chung for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. Wen-Chang Liao for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. Victor Chin for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. David Yao for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. Wilson H. Tien for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. Li-Chung Shao for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. Shangren Lee for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Rude for Mr. Yun Kuang Kuo for his participation in the American Council of Young Political Leaders (ACYPL) hosting a delegation from the Republic of China.

A certificate of commendation by Senator Decker for Jeffrey Goetsch on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of commendation by Senator Panzer for Cameren McHenry for his strength of character to overcome his adversity.

A certificate of commendation by Senator Panzer for Kevin Kleist for his strength of character to overcome his adversity.

A certificate of congratulation by Senator Schultz for Mr. Ron Fruit on the occasion of being selected as one of two 1995 Outstanding Alumni by the University of Wisconsin Center-Richland Alumni Association.

A certificate of congratulation by Senator Schultz for Mr. Milford Kintz on the occasion of being selected as one of two 1995 Outstanding Alumni by the University of Wisconsin Center-Richland Alumni Association.

A certificate of commendation by Senator George for Girl Friends, Inc. for their years of service and spirit to African Women.

A certificate of commendation by Senator Moen for Ernie Reck on the occasion of celebrating 35 years as the longest running "remote radio studio."

A certificate of commendation by Senator Huelsman for Morgan Holt on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of commendation by Senator Huelsman for Matthew Berndt on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Burke for Matthew Babby on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Burke for Michael Babby on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Burke for Matthew Watson on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Burke for Jason Koszuta on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Adelman for the Muskego Lions Club on the occasion of celebrating their 45th Anniversary.

A certificate of congratulation by Senator Adelman for the New Berlin Lions Club on the occasion of celebrating their 45th Anniversary.

A certificate of congratulation by Senator Adelman for the Prospect Club on the occasion of celebrating their 45th Anniversary.

A certificate of commendation by Senator Buettner for Marty Paulsen on his numerous years of service in the Fond du Lac School District Athletic programs.

A certificate of congratulation by Senator Petak for Don Dalton on the occasion of his many achievements in high school athletics and his service to the community.

A certificate of congratulation by Senator Moen for the Lady Spartan Golf Team on their outstanding 1995 Golf season and first trip to the 24th Annual WIAA State Meet.

A certificate of congratulation by Senator Adelman for Otto Fiehweg on the occasion the celebration of his 90th Birthday.

A certificate of congratulation by Senator Moen for Herman and Terry Schroeder on the occasion of celebrating their 50th Wedding Anniversary.

A certificate of congratulation by Senator Schultz for Beecher Daniels on the occasion of being selected the 126th Grand Master of Masons in Wisconsin.

A certificate of congratulation by Senator Schultz for Benjamin Reinke on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Darling for Jonathan Pellegrin on the occasion of receiving the University of Wisconsin–Madison Distinguished Business Alumnus Award.

A certificate of commendation by Senator Risser for James Rudolph on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of commendation by Senator Petak for the Heritage National Bank on its quarter–century of service to southeastern Wisconsin.

A certificate of congratulation by Senator Adelman for the Whitnall High School Marching Band, we join the school and community in recognizing their achievements and commitment to excellence.

A certificate of congratulation by Senator Decker for Kenneth and Madeline Schreiber on the occasion of the celebration of their 50th Wedding Anniversary.

A certificate of commendation by Senator Darling for Matthew G. Bloedorn on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of commendation by Senator Lasee for Mathew Norman Lallensack on the occasion of earning and attaining the rank of Eagle Scout.

A certificate of congratulation by Senator Welch for Dennis Fischer on the occasion of the achievement of the Distinguished Service Award.