



STATE OF WISCONSIN

Senate Journal

Ninety–Third Regular Session

10:00 A.M.

TUESDAY, March 10, 1998

The Senate met.

The Senate was called to order by Senator Fred Risser.

INTRODUCTION AND REFERENCE OF RESOLUTIONS AND JOINT RESOLUTIONS

Read and referred:

Senate Joint Resolution 44

Relating to: proclaiming Arts Day.

By Senators Grobschmidt and Rude; cosponsored by Representatives Murat and Underheim.

To committee on **Senate Organization**.

INTRODUCTION, FIRST READING AND REFERENCE OF BILLS

Read first time and referred:

Senate Bill 490

Relating to: Downer Woods on the campus of the University of Wisconsin–Milwaukee.

By Senators Grobschmidt and Darling; cosponsored by Representatives Wasserman and Walker, by request of the University of Wisconsin – Milwaukee.

To committee on **Education**.

Senate Bill 491

Relating to: a Wisconsin promise challenge grant program and making an appropriation.

By Senators Panzer, Wirch, Rosenzweig, Drzewiecki and Roessler; cosponsored by Representatives Plale, M. Lehman and L. Young.

To committee on **Economic Development, Housing and Government Operations**.

Senate Bill 492

Relating to: the powers of full–time court commissioners.

By Senator Burke; cosponsored by Representative Walker.

To committee on **Judiciary, Campaign Finance Reform and Consumer Affairs**.

Senate Bill 493

Relating to: grants to teachers who are certified by the National Board for Professional Teaching Standards, granting rule–making authority and making an appropriation.

By Senators Rosenzweig, C. Potter, Rude, Jauch, Darling, Grobschmidt, Panzer, Shibilski, Zien and Farrow; cosponsored by Representatives Olsen, J. Lehman, Green, Baumgart, Musser, Gronemus and Robson.

To committee on **Education**.

Senate Bill 494

Relating to: suspension of licenses, permits and other credentials for failure to pay child support or to comply with a subpoena or warrant related to paternity or child support proceedings and requiring social security numbers on license, permit and other credential applications and on certain documents concerning marriage and children; creating a record matching program to match information about delinquent child support obligors with financial account information of financial institutions; creating a statutory lien for delinquent child support obligations; creating a mechanism for enforcing child support liens; fees for the child and spousal support, establishment of paternity and medical liability support program and cooperation with child support efforts under Wisconsin works; income withholding for support or maintenance, adjudicating paternity when the mother fails to appear and other technical changes related to child support enforcement; access to certain agency records, nonliability for providing information from records, issuing subpoenas, ordering genetic tests; providing notice to new employers of a parent's obligation to provide health care coverage for a child; hospital–based voluntary establishment of paternity; administratively changing interstate income–withholding orders to sum certain amounts; presumption of paternity; access by county child support employees to tax information; acknowledgment of paternity; procedure, temporary orders and probable cause in paternity actions; payment for genetic tests in paternity actions; changes in departmental responsibility for support enforcement; intercepting delinquent support and certain other payments from pension plan disbursements; intercepting delinquent support from court judgments and settlements; granting rule–making authority; making appropriations; and providing a penalty.

By Senators Wirch, Darling and Roessler; cosponsored by Representatives Huebsch, R. Young and La Fave.

To committee on **Judiciary, Campaign Finance Reform and Consumer Affairs**.

Senate Bill 495

Relating to: mental health crisis intervention services; requirements for a Level I local health officer; coordination by a local board of health of activities of a sanitarian; fetal death reports; access by a coroner, deputy coroner, medical examiner or medical examiner's assistant to patient health care records; confidentiality restrictions on cancer reports; service contracts under community integration programs; eliminating outdated requirements for bed assessments for nursing homes and intermediate care facilities for the mentally retarded; designation by a nursing home of a person to accept service of notice or mail; required information for licenses for nursing homes and community–based residential facilities; eliminating a date for posting notice about the long–term care ombudsman program; eliminating dates for determinations that nursing homes are institutions for mental diseases; resident rights and

responsibilities for residents of nursing homes and community-based residential facilities; eliminating dates for requesting and providing information about nursing homes; evaluations of integrated services projects; matching funds requirements for participants in integrated services projects; eliminating a requirement for a plan and report on school-community alcohol and drug abuse prevention and other services; eliminating a requirement that a person investigating a report of suspected or threatened emotional abuse of a child determine that the person responsible for the emotional damage is neglecting, refusing or unable for reasons other than poverty to remedy the harm; and prohibiting an adoptive parent from moving for relief from an order granting adoption or petitioning for a rehearing of such an order (suggested as remedial legislation by the department of health and family services).

By Law Revision Committee.

To committee on **Health, Human Services, Aging, Corrections, Veterans and Military Affairs.**

Senate Bill 496

Relating to: ozone-depleting refrigerant and mobile air conditioners.

By Senators Cowles, Shibilski, Huelsman, Farrow, Darling and Schultz; cosponsored by Representatives Schafer, Ainsworth, Otte, Goetsch, Ryba, Foti, Musser, Owens, Albers, Hasenohrl, Olsen, Vander Loop, Lorge, Grothman and Plouff, by request of Department of Agriculture, Trade and Consumer Protection.

To committee on **Agriculture and Environmental Resources.**

Senate Bill 497

Relating to: causing injury, death or property damage while under the influence of alcohol and providing a penalty.

By Senators Drzewiecki, Farrow, Huelsman and Jauch; cosponsored by Representatives Johnsrud, Porter, Dobyms and Walker.

To committee on **Judiciary, Campaign Finance Reform and Consumer Affairs.**

REPORT OF COMMITTEES

The committee on **Agriculture and Environmental Resources** reports and recommends:

Assembly Bill 232

Relating to: sale of rabies vaccine and rabies vaccination of dogs.

Introduction and adoption of Senate substitute amendment 1.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Concurrence as amended.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Assembly Bill 299

Relating to: disabled hunter permits issued to persons who are visually handicapped.

Concurrence.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Assembly Bill 488

Relating to: prospecting and mining fees.

Concurrence.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Assembly Bill 737

Relating to: the waiver of requirements for trapping approvals for certain special events or programs sponsored or approved by the department of natural resources.

Concurrence.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Senate Bill 181

Relating to: establishment of species harvest limits and allotment of individual licensee catch quotas among holders of commercial fishing licenses and granting rule-making authority.

Introduction and adoption of Senate amendment 1.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Passage as amended.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Senate Bill 394

Relating to: hunting near certain schools.

Passage.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Senate Bill 400

Relating to: advisory members of the land and water conservation board and the renumbering of certain provisions of chapter 134 of the statutes (suggested as remedial legislation by the department of agriculture, trade and consumer protection).

Passage.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Senate Bill 420

Relating to: the registration of professional geologists, hydrologists and soil scientists, providing an exemption from emergency rule procedures, granting rule-making authority and providing a penalty.

Introduction of Senate substitute amendment 1.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Introduction and adoption of Senate amendment 1 to Senate substitute amendment 1.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Senate substitute amendment 1 adoption.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Passage as amended.

Ayes, 3 – Senators Clausing, Wirch and Zien.
Noes, 1 – Senator A. Lasee.

Senate Bill 449

Relating to: costs related to investigations regarding weights and measures violations, protection for persons reporting weights and measures violations, providing for business and consumer education and making an appropriation.

Introduction and adoption of Senate amendment 1.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Passage as amended.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Senate Bill 459

Relating to: vacating or discontinuing public access to lakes and streams.

Passage.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Senate Bill 488

Relating to: representations concerning cheese.

Introduction and adoption of Senate substitute amendment 1.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Passage as amended.

Ayes, 4 – Senators Clausing, Wirch, A. Lasee and Zien.
Noes, 0 – None.

Alice Clausing
Chairperson

The committee on **Economic Development, Housing and Government Operations** reports and recommends:

Assembly Bill 12

Relating to: public comments at meetings of governmental bodies.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Assembly Bill 142

Relating to: the method of selection of election officials.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Assembly Bill 156

Relating to: a county treasurer's appointment of a deputy treasurer.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Assembly Bill 334

Relating to: the regulation of home inspectors, providing an exemption from emergency rule procedures, granting rule-making authority and providing penalties.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Assembly Bill 444

Relating to: fermented malt beverage wholesalers.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Assembly Bill 478

Relating to: publication of foreclosure notices; notices to former owners of tax-deeded property; and recovery of the costs of foreclosure of tax-deeded land.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Assembly Bill 547

Relating to: the issuance of administrative warnings to holders of credentials issued by the department of regulation and licensing and granting rule-making authority.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Assembly Bill 566

Relating to: sales tax and use tax late filing fees.

Concurrence.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Senate Bill 307

Relating to: requesting the joint legislative council to study shared revenue.

Passage.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Senate Bill 421

Relating to: exempting persons who braid hair or who engage in certain activities preparatory to portrait photography from licensing requirements administered by the barbering and cosmetology examining board.

Introduction and adoption of Senate amendment 1.

Ayes, 3 – Senators Moore, Plache and Fitzgerald.
Noes, 1 – Senator Weeden.

Passage as amended.

Ayes, 3 – Senators Moore, Plache and Fitzgerald.
Noes, 1 – Senator Weeden.

Senate Bill 457

Relating to: lake bed areas owned by Milwaukee County that are used for certain recreational purposes and to Milwaukee County's creating or acting as a board of harbor commissioners.

Introduction and adoption of Senate substitute amendment 1.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Passage as amended.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Senate Bill 467

Relating to: experience and continuing education requirements for certified general and residential appraisers and licensed appraisers and granting rule-making authority.

Passage.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Senate Joint Resolution 11

Relating to: memorializing Congress to ensure that the federal government will accept civilian spent nuclear fuel on January 31, 1998.

Adoption.

Ayes, 4 – Senators Moore, Plache, Fitzgerald and Weeden.
Noes, 0 – None.

Gwendolynne Moore
Chairperson

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

Senate Bill 274

Relating to: removal of disruptive pupils from the class and granting rule-making authority.

Introduction and adoption of Senate substitute amendment 1.

Ayes, 7 – Senators C. Potter, Jauch, Shibilski, Grobschmidt, Darling, Huelsman and Roessler.
Noes, 1 – Senator Fitzgerald.

Passage as amended.

Ayes, 7 – Senators C. Potter, Jauch, Shibilski, Grobschmidt, Darling, Huelsman and Roessler.
Noes, 1 – Senator Fitzgerald.

Calvin Potter
Chairperson

The committee on **Health, Human Services, Aging, Corrections, Veterans and Military Affairs** reports and recommends:

Assembly Bill 2

Relating to: prohibiting name changes by prisoners, probationers and parolees while under the supervision of the department of corrections.

Concurrence.

Ayes, 5 – Senators Moen, Breske, Roessler, Rosenzweig and Fitzgerald.
Noes, 1 – Senator Moore.

Assembly Bill 53

Relating to: disclosure of identifying information about birth siblings, granting rule-making authority and making an appropriation.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 139

Relating to: veterans benefits for veterans who are delinquent in child or spousal support, maintenance, medical expenses or birth expenses.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 509

Relating to: creating a marriage and family therapist training certificate and the eligibility requirements for taking the examination for a marriage and family therapist or professional counselor certificate.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 581

Relating to: the supplemental food program for women, infants and children and making an appropriation.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 582

Relating to: allowing a power of attorney for health care instrument to be used to make or refuse to make an anatomical gift and allowing a health care agent to make an anatomical gift.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 601

Relating to: adoption assistance, granting rule-making authority and making appropriations.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 602

Relating to: kinship care, creating a long-term kinship care program and making appropriations.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 735

Relating to: veterans part-time classroom study, veterans tuition and fee reimbursement, veterans retraining grants, authority to construct and operate residential, treatment and nursing care facilities in southeastern Wisconsin and veterans housing loans.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 743

Relating to: the provision of dental services by the Marquette University School of Dentistry.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Bill 756

Relating to: the creation of an additional unclassified division administrator position in the department of health and family services.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Assembly Joint Resolution 20

Relating to: urging Congress and the President to enact legislation to allow concurrent receipt of military longevity pay and disability benefits.

Concurrence.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

BARBERENA, OMAR, of Milwaukee, as a member of the Nursing Home Administrator Examining Board, to serve for the term ending July 1, 2001.

Confirmation.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

HAMMER, ROLAND M., M.D., of River Falls, as a member of the Nursing Home Administrator Examining Board, to serve for the term ending July 1, 2001.

Confirmation.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

LEHRMANN, EUGENE I., of Madison, as a member of the Board on Aging and Long-Term Care, to serve for the term ending May 1, 2002.

Confirmation.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

MELLOWES, LINDA, of Milwaukee, as a member of the Board of Trustees of the Medical College of Wisconsin, Inc., to serve for the term ending May 1, 2003.

Confirmation.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

ROBERTSON, DR. RUSSELL G., of Mequon, as a member of the Rural Health Development Council, to serve for the interim term ending July 1, 2001.

Confirmation.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

ROBINSON, KAREN R., of Bloomer, as a member of the Nursing Home Administrator Examining Board, to serve for the term ending July 1, 2001.

Confirmation.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Senate Bill 337

Relating to: the regulation of music, art and dance therapists and providing a penalty.

Introduction and adoption of Senate substitute amendment 1.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Passage as amended.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Senate Bill 378

Relating to: creating a child abuse and neglect prevention program, medical assistance for certain case management services, authorizing the child abuse and neglect prevention board to form a nonstock, nonprofit corporation, early childhood family education center grants awarded by the child abuse and neglect prevention board, training programs and training requirements for staff of county departments or licensed child welfare agencies under contract with county departments whose responsibilities include investigation or treatment of child abuse and neglect, granting rule-making authority and making appropriations.

Introduction of Senate substitute amendment 1.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Introduction and adoption of Senate amendment 1 to Senate substitute amendment 1.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Senate substitute amendment 1 adoption.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Passage as amended.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Senate Bill 416

Relating to: deductibles for coverage of treatment for alcoholism and other drug abuse problems and nervous and mental disorders.

Passage.

Ayes, 4 – Senators Moen, Moore, Roessler and Rosenzweig.

Noes, 2 – Senators Breske and Fitzgerald.

Senate Bill 419

Relating to: food stamps for qualified aliens and making an appropriation.

Introduction and adoption of Senate amendment 1.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Passage as amended.

Ayes, 5 – Senators Moen, Breske, Moore, Roessler and Rosenzweig.

Noes, 1 – Senator Fitzgerald.

Senate Bill 450

Relating to: formation of mutual insurance holding companies, requiring the exercise of rule-making authority and making an appropriation.

Introduction and adoption of Senate amendment 1.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Introduction and adoption of Senate amendment 2.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Passage as amended.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.

Noes, 0 – None.

Senate Bill 453

Relating to: requiring that income levels of patients be included in required induced-abortion reporting and granting rule-making authority.

Passage.

Ayes, 6 – Senators Moen, Breske, Moore, Roessler, Rosenzweig and Fitzgerald.
Noes, 0 – None.

Rodney Moen
Chairperson

The committee on **Insurance, Tourism and Rural Affairs** reports and recommends:

Senate Bill 444

Relating to: the Kickapoo valley reserve, the Kickapoo reserve management board and providing a penalty.

Passage.

Ayes, 4 – Senators Breske, Jauch, Schultz and Drzewiecki.
Noes, 0 – None.

Roger Breske
Chairperson

The committee on **Judiciary, Campaign Finance Reform and Consumer Affairs** reports and recommends:

Assembly Joint Resolution 80

Relating to: the distribution of the net proceeds of the state lottery and certain moneys received by the state that are attributable to pari-mutuel on-track betting and bingo (first consideration).

Concurrence.

Ayes, 4 – Senators Wirch, Clausing, Huelsman and Drzewiecki.
Noes, 0 – None.

Robert Wirch
Chairperson

The committee on **Labor, Transportation and Financial Institutions** reports and recommends:

Assembly Bill 256

Relating to: tractor and machinery operation safety training and certification.

Concurrence.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

Assembly Bill 669

Relating to: repealing the rejection of federal preemption over state interest rate provisions.

Concurrence.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

Assembly Joint Resolution 106

Relating to: federal spending on transportation.

Concurrence.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

ROGERS, JUDY M., of Madison, as a Commissioner of the Personnel Commission, to serve for the term ending March 1, 2003.

Confirmation.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

RUTKOWSKI, JAMES A., of Greenfield, as Commissioner of the Labor and Industry Review Commission, to serve for the interim term ending March 1, 2003.

Confirmation.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

Senate Bill 397

Relating to: the authority of the personnel commission to receive and process complaints relating to family or medical leave and appeals to the personnel commission of delegatory actions taken by an appointing authority (suggested as remedial legislation by the personnel commission).

Passage.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

Senate Bill 432

Relating to: the fair hearing process under Wisconsin works.

Introduction and adoption of Senate amendment 1.

Ayes, 4 – Senators Plache, Moore, Decker and Darling.
Noes, 2 – Senators Zien and Farrow.

Passage as amended.

Ayes, 4 – Senators Plache, Moore, Decker and Darling.
Noes, 2 – Senators Zien and Farrow.

Senate Bill 447

Relating to: updating obsolete terminology in the fair employment, vocational rehabilitation, worker's compensation, minimum wage and fair housing laws and deleting an obsolete reference in the fair employment law (suggested as remedial legislation by the department of workforce development).

Passage.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

Senate Bill 474

Relating to: solvency contribution rates applicable to certain employers for unemployment insurance purposes in 1998, unemployment insurance information technology systems and making an appropriation.

Passage.

Ayes, 6 – Senators Plache, Moore, Decker, Zien, Darling and Farrow.
Noes, 0 – None.

Kimberly Plache
Chairperson

State of Wisconsin

Joint Survey Committee on Retirement Systems

The joint survey committee on Retirement Systems reports and recommends:

Senate Bill 329

Relating to: presumption concerning employment-connected disease for certain municipal fire fighters.

The **Joint Survey Committee on retirement Systems** finds that **Senate Bill 329** reflects good public policy, and the Committee recommends its passage.

Richard Grobschmidt
Senate Chairperson

Referred to committee on **Labor, Transportation and Financial Institutions.**

The committee on **Senate Organization** reports and recommends:

Senate Joint Resolution 42

Relating to: proclaiming May 15, 16 and 17, 1998, Syttende Mai Weekend.

Adoption.

Ayes, 6 – Senators Chvala, Risser, Moen, Ellis, Rude and Farrow.

Noes, 0 – None.

Charles Chvala
Chairperson

PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Ethics Board**

March 10, 1998

The Honorable, The Senate/Legislature:

At the direction of s. 13.685(7), *Wisconsin Statutes*, I am furnishing you with the names of organizations recently registered with the Ethics Board that employ 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 each 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.

Organizations recently registered:

Below are the names of organizations recently registered with the Ethics Board as employing one or more individuals to affect state legislation or administrative rules.

Coca-Cola Bottling Company of Wisconsin

Subject(s): All areas affecting the soft drink industry.

Hodan, Patrick

Organization's authorization of additional lobbyists:

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

Cattlemens Assn, Wisconsin

Weisensel, Russell

Medical Society of Wisconsin, State

Broydrick, William

Oakley, Kara

Power and Light Company, Wisconsin

Jensen, Jodi

Rental Dealers Assn, Wisconsin

Weiden, Michael

Termination of lobbying authorizations:

The following individuals are no longer authorized to lobby on behalf of the organizations listed below, as of the dates indicated.

Cattlemens Assn., Wisconsin

Hauser, R F (Dick) 3/3/98

Organization's cessation of lobbying activity:

The following organizations previously registered with the Ethics Board as employers of lobbyists have indicated a cessation of all lobbying activity effective on the dates shown.

Digital Equipment Corporation 3/9/98

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,

ROTH JUDD
Director

**State of Wisconsin
Claims Board**

March 4, 1998

The Honorable, The Senate:

Enclosed is the report of the State Claims Board covering the claims heard on February 19, 1998.

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 in the State Capitol, North Hearing Room, Madison, Wisconsin on February 19, 1998, upon the following claims:

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
1. Russell L. Gray	Department of Revenue	\$900.00
2. Scott Air Charter	Department of Revenue	\$5,223.01
3. Mark & Barbara Lucius	University of Wisconsin	\$7,984.93
4. Ronald J. Anderson	University of Wisconsin	\$155.40
5. Candi Boley	University of Wisconsin	\$300.00
6. Warren Burger	University of Wisconsin	\$90.40
7. Bonnie Gerner	University of Wisconsin	\$280.59
8. Gary & Carol Larsen	University of Wisconsin	\$265.71
9. Mareen Reeson	University of Wisconsin	\$372.32
10. Bill Resop	University of Wisconsin	\$107.06
11. Carlton P. Severson	University of Wisconsin	\$58.03
12. John L. Syftestad	University of Wisconsin	\$83.52
13. Kenneth Wittenwyler	University of Wisconsin	\$21.00
14. Robert & Alice Yaeger	University of Wisconsin	\$126.22

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

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
15. Douglas W. Brown	University of Wisconsin	\$171.33

16. Amy Freed	Department of Regulation & Licensing	\$62.25
17. Glacier State Distribution	Department of Transportation	\$31,010.00
18. Kelly Lang	Department of Transportation	\$1,627.44
19. William Medina	Department of Corrections	\$50.00
20. Veronica Miller	Wisconsin State Fair Park	\$1,354.64
21. Jack P. Peters	Department of Natural Resources	\$20.05

The Board Finds:

1. Russell L. Gray of Endeavor, Wisconsin claims \$900.00 for a Homestead credit claim, which was allegedly wrongfully denied by the Department of Revenue. The claimant timely filed a 1994 Homestead Credit Claim. The Department audited the claim and requested affidavits of residency, a letter from the claimant's landlord, and cancelled rent checks. The claimant alleges that during this audit, the auditor claimed that the claimant's landlord had told the auditor that the claimant did not live at the claimed homestead. The claimant asserts that the landlord by affidavit has denied such a conversation and confirmed the claimant's residence. The claimant's Homestead claim was denied by the Department on the basis that the claimant did not provide sufficient information to support the claim. This decision was appealed to the Department. The claimant alleges that the Department intentionally concealed the correct appeal deadline, thereby causing the claimant to file the appeal two days late. The claimant further alleges that the Department told him that it would waive any jurisdictional problems if the appeal was filed late and that the Department had no authority to waive the late filing of an appeal. The Tax Commission upheld the Department's decision denying the appeal. The Department recommends denial of this claim. The Board concludes the claim should be paid in the reduced amount of \$450.00 based on equitable principles. At the hearing, the claimant indicated that he needed the money to pay his child support. In order to insure that the money is used for this purpose, the Board concludes that the check should be payable to both the claimant and the Dane County Clerk of Courts. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Claims Board appropriation s. 20.505 (4)(d), Stats.

2. Scott Air Charter, Inc., of Milwaukee, Wisconsin claims \$5,223.01 for refund of sales tax paid in error to the Department of Revenue because of a mutual mistake. The Department conducted a field audit of the claimant for the period 1987 through 1991. The audit resulted in an assessment of sales tax not charged by the claimant for sales to Leeson Electric Corporation. The claimant appealed the Department's assessment. During the appeal process, Leeson informed the claimant that it had previously paid use tax to the Department, which constituted a portion of the amount of sales tax being assessed against the claimant (\$5,223.01). The claimant informed the Department and requested that the amount of use tax already paid by Leeson be credited against the claimant's assessment. The Department contacted Leeson's tax manager and was told that the use taxes in question were paid on invoices after 1991, therefore, the payments were beyond the field audit period. Based on this information, the Department denied the claimant's request to credit Leeson's payments against the assessment. The claimant entered into a stipulation agreement with the Department and paid the assessment in full. It was later discovered that Leeson's use tax payments were made in 1989 and 1990; not 1992 as previously believed. As a result, the payments by Leeson were within the claimant's audit period and the claimant alleges that the amount should have been deducted from the Department's assessment of the claimant.

Leeson tried to file a claim for the payments but the Department denied the claim because of the four-year statute of limitations. The claimant requests reimbursement of the \$5,223.01, which should have been deducted from the assessment. The Department recommends denial of this claim. It is unfortunate that the \$5,223.01 in taxes was paid twice, however, the claimant signed a closing agreement with the Department and paid the assessment. The Department acted properly and in good faith based on information it obtained from a credible person at Leeson, its tax manager, and should not be held responsible for the claim. The Board concludes there has been an 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.

3. Mark and Barbara Lucius of Milwaukee, Wisconsin claim \$ 7,984.93 for damages related to an automobile accident on February 2, 1994. The claimants were involved in an automobile accident with an employe (Norman Heard) of the University of Wisconsin—Milwaukee. Both claimants were allegedly injured and their vehicle damaged. In May 1994 the claimants' legal counsel sent a letter to UW Risk Management requesting that the UW notify its liability carrier. The claimants' legal counsel received a letter from Sentry Insurance, indicating that it was investigating the accident. The claimants' legal counsel prepared and sent a formal Notice of Claim naming both Mr. Heard and the UW. The notice was not timely served upon the state and was therefore denied. The claimants proceeded with a lawsuit against Mr. Heard. Default judgment was granted against Mr. Heard, who eluded service of process and declined to participate in the lawsuit in any way. Subsequent, repeated and persistent attempts to serve Mr. Heard were unsuccessful and have remained so to the present day. Such attempts include efforts by the claimants to pursue available legal channels to collect upon their judgment. The claimants have no recourse with the state, via the courts, because the Notice of Claim was untimely. The claimants allege, however, that it is clear that the state not only had such notice, but that it had actively engaged its investigator, Sentry Insurance, within the applicable time period. The claimants further allege that the essential purpose of the notice of claim statute has been fulfilled here, and they are being punished, in effect, because the State had benefited from a technicality and because Mr. Heard refused to cooperate with the investigation. The University of Wisconsin recommends denial of this claim. The claimant's retained counsel, but they failed to file a Notice of Claim with the State within the time limit prescribed by s. 893.82, Wis. Stats. Because of their failure to file a timely Notice, the suit was dismissed against the state. It appears that the claimants obtained judgment against Mr. Heard, but have not been able to collect. The claimants had an opportunity to litigate this matter, but due to the negligence of counsel, they failed to meet the technical requirements imposed by state law. The Board concludes there has been an 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.

4–14. The following claims are for tire damage allegedly caused by ash from the University of Wisconsin. In December 1996 and January 1997, certain townships near Madison used ash from the UW–Madison heating plant as a substitute for road salt. This ash was made available free of charge to the municipalities. It appears that some of the ash during this time period contained sharp metal fragments, apparently the residue of incomplete burning of tires for fuel. A number of people in the area have experienced tire damage due to these metal fragments slowly working their way into the tires. When the

problem first became apparent, the University of Wisconsin paid 59 claims directly without Claims Board action. The UW, without any particular basis other than the passage of time, set a cut off date of May 15, 1997, and denied claims for damages incurred after that date. The University of Wisconsin recommends denial of these claims. When the townships notified the University of the residue problem, the UW took immediate, corrective action to avoid further problems. Ordinarily, such circumstances would not warrant the payment of claims for tire damage. Nevertheless, although it was not negligent, the UW believed that equitable principles supported the payment of some claims for tire damage occurring in connection with the use of the ash. Accordingly, reimbursements were made for certain claims arising prior to May 1997. The UW contends that responsibility for the continued use of any stockpiled ash, or for road sweeping necessary to clear remaining ash, would be at the municipal level. The UW also argues that given the remoteness in time between the first applications of the ash and the filing of these claims, there is no equitable basis for payment. The Board concludes that the claimed amounts listed below should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., the payments should be made from the University of Wisconsin appropriation s. 20.285 (1)(c), Stats.

4.	Ronald J. Anderson	\$155.40
5.	Candi Boley	\$300.00
6.	Warren Burger	\$90.40
7.	Bonnie Gerner	\$280.59
8.	Gary & Carol Larsen	\$265.71
9.	Mareen Reeson	\$372.32
10.	Bill Resop	\$107.06
11.	Carlton P. Severson	\$58.03
12.	John L. Syftestad	\$83.52
13.	Kenneth Wittenwyler	\$21.00
14.	Robert & Alice Yaeger	\$126.22

15. Douglas W. Brown of Sun Prairie, Wisconsin claims \$171.33 for vehicle damage allegedly caused by a lawnmower at the University of Wisconsin. The claimant's vehicle was backed into a stall in lot 59 on the UW campus. When he returned to his vehicle, the claimant noticed a scratch on one end of his rear bumper. He contacted the UW grounds department and spoke with Tom Hamburg, who allegedly admitted that the damage could have been caused by a UW lawnmower. However, when the claimant submitted his claim to UW Risk Management, Mr. Hamburg would not support his previous statement in writing. The claimant has paid for the repairs but has not submitted a claim to his insurer. The claimant has insurance coverage for the damage, minus a \$50 deductible. The University of Wisconsin recommends this claim be denied. There is no evidence to support the claimant's contention that a lawnmower caused the damage to his vehicle. There is nothing in the record to suggest that any lawn mower touched the claimant's car, and thus there is no basis for concluding that there was negligence on the part of a state employee. The Board concludes there has been an 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.

16. Amy Freed of Madison, Wisconsin claims \$62.25 for repair of a retinoscope. The claimant's retinoscope was accidentally knocked off a table by a proctor during a Department of Regulation & Licensing optometry licensing exam. The Department of Regulation & Licensing concurs with the facts as presented by the claimant and recommends payment of this claim. The Board concludes the claim should

be paid based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Regulation & Licensing appropriation s. 20.165 (1)(i), Stats.

17. Glacier State Distribution Services, Inc., of Brodhead, Wisconsin claims \$31,010.00 for damages related to bids for road salt contracts with the Department of Transportation. The claimant transports its salt by rail in covered cars and stores the salt indoors. Most salt producers transport their salt by barge and do not store it indoors, which, according to the claimant, results in the salt being contaminated by water and dirt. Therefore, the claimant contends that its product is superior in quality to that supplied by water based transportation. The claimant claims that the Department of Transportation is being unjustly enriched by paying the same price for both the claimant's superior product and that of water based suppliers. The claimant believes that section 16.75 (1m), Stats., which directs the Department to use life cycle costing, requires the Department to pay a premium for superior quality salt. The claimant further states that the Department did pay a premium of \$.50/ton for higher quality salt in its 1994-95 contracts. The claimant requests payment of this premium for their 1995-96 road salt contracts in the amount of \$5,850. The claimant also claims that the Department failed to award it the Taylor County road salt contract, despite the fact that the claimant was the lowest responsive bidder. The claimant claims \$4,520 in lost profits from the Taylor County contract. The claimant's lost revenues total \$10,370 and the claimant requests treble damages along with costs and attorneys fees pursuant to Chapter 133 of the Wisconsin Statutes. The Department of Transportation recommends denial of this claim. In its 1994-95 contracts, the Department did offer a premium for indoor storage of salt in order to encourage vendors to use indoor storage, not because of life cycle costing. The Department has chosen not to offer this premium on subsequent bids because no reliable data exists to support the value of storing salt as provided pursuant to the premium. Furthermore, section 16.75 (1m), Stats., states that life cycle cost estimates are required whenever such action is appropriate. The Department had no information indicating that life cycle cost estimates are appropriate for the acquisition of salt and therefore did not apply them to the 1995-96 road salt contracts. Finally, the claimant was not awarded the Taylor County contract because the bid required 100% storage of the salt by December 31. The claimant's bid only provided 80% of the salt in storage by December 31. This was unacceptable to the Department because of the risks associated with not having adequate salt supplies on hand when needed. The Board concludes there has been an 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. (Members Main and Lee not participating.)

18. Kelly Lang of Roscoe, Illinois claims \$1,627.44 for damages related to a title error. In July 1996, the claimant purchased a 1985 Buick Regal from Robert Passow. The purchase price was \$1400 and the vehicle title indicated actual mileage of 68,349. Approximately six months later, the vehicle completely broke down and the claimant was told by a mechanic that the engine, which probably had several hundred thousand miles on it, had worn out. The claimant did a title search and discovered that there was actually in excess of 200,000 miles on the vehicle. When a Wisconsin title was issued on April 11, 1992, it was mistakenly issued as "actual miles" when it should have been recorded as "in excess" of 100,000 miles. The claimant contacted the former owners and discovered that they were not aware of the title error. The claimant states that she would not have purchased the vehicle,

had she known the actual mileage. The claimant has incurred damages other than the loss of the purchase price. She spent roughly \$300 on new tires and small repairs shortly after purchasing the vehicle. It cost \$91.80 for a rental car, \$34.04 for gas, and \$101.60 for a diagnosis when the car broke down. The claimant was able to sell the vehicle for \$300. She requests reimbursement of her remaining expenses, since the error was made by a Department of Transportation employe, and was not fault of either the claimant or the previous owner. The Department of Transportation recommends payment of this claim in the amount of \$1,327.44. The Department does find negligence on the part of a state employe for not correctly processing the title. The Department recommends payment of \$1,327.44. This amount represents the purchase price, the vehicle rental fee and gas, and the engine diagnostic work, minus the \$300 the claimant was able to sell the vehicle for. The Board concludes the claim should be paid in the reduced amount of \$1,327.44 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Transportation fund, unappropriated revenue.

19. William Medina of Florence, Colorado claims \$50.00 for reimbursement of a money order allegedly stolen by personnel at the Waupun Correctional Institution. The claimant alleges that he received the money order from an acquaintance. WCI refused to deposit the funds in his account or send him the money order when he was transferred to another institution. He believes the Department of Corrections does not have the authority to keep the money order from him and requests \$50 reimbursement. The Department of Corrections recommends this claim be denied. The money order in question was from an inmate named Robert Ciarpaglini and was made out to the order of a Daniel Furseth. The money order had then been modified to show it as coming from Mr. Furseth to the order of the claimant, another WCI inmate. Section DOC 303.40, Wis. Adm. Code prohibits unauthorized transfer of money between inmates. Because of this rule and concerns about the alterations on the face of the money order, the WCI business office declined to deposit the money in the claimant's account and instead re-deposited it in the account of Mr. Ciarpaglini. If Mr. Ciarpaglini wishes to send another draft to the claimant, nothing is stopping him from doing so. WCI staff acted appropriately and there is no merit to this claim. The Board concludes there has been an 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.

20. Veronica Miller of Las Vegas, Nevada claims \$1,354.64 for uninsured medical bills allegedly incurred due to an accident at State Fair Park on August 5, 1996. The claimant states that she broke her wrist and ankle when she stepped on a hump that was part of a storm sewer. She states that her ankle twisted into the drain and she fell, landing on her wrist. She requests reimbursement for her uninsured medical expenses. Wisconsin State Fair Park recommends this claim be denied. State Fair Park has no evidence or reports that indicate the claim should be paid. The Board concludes there has been an 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. Jack P. Peters of Horicon, Wisconsin claims \$20.05 for replacement of a damaged boat light. The claimant's rear boat light was broken when a Department of Natural Resources warden bumped her boat into the back of the claimant's boat. The claimant did not realize there was a 120 day deadline for

filing with State Risk Management and is requesting reimbursement of the cost to replace the damaged light. The Department of Natural Resources recommends the claim be paid. The Board concludes the claim should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Natural Resources appropriation s. 20.370 (3)(mu), Stats.

The Board concludes:

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

Scott Air Charter
 Mark and Barbara Lucius
 Douglas W. Brown
 Glacier State Distribution Services, Inc.
 William Medina
 Veronica Miller

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

Russell L. Gray	\$450.00
Ronald J. Anderson	\$155.40
Candi Boley	\$300.00
Warren Burger	\$90.40
Bonnie Gerner	\$280.59
Gary and Carol Larsen	\$265.71
Mareen Reeson	\$372.32
Bill Resop	\$107.06
Carlton P. Severson	\$58.03
John L. Syftestad	\$83.52
Kenneth Wittenwyler	\$21.00
Robert and Alice Yaeger	\$126.22
Amy Freed	\$62.25
Kelly Lang	\$1,327.44
Jack P. Peters	\$20.05

Dated at Madison, Wisconsin this 4th day of March 1998.

ALAN LEE, CHAIR

Representative of the Attorney General

EDWARD D. MAIN, SECRETARY

Representative of the Secretary of Administration

SHERYL ALBERS

Assembly Finance Committee

BRIAN BURKE

Senate Finance Committee

STEWART SIMONSON

Representative of the Governor

**State of Wisconsin
 Joint Legislative Council**

March 5, 1998

The Honorable, The Senate:

I am pleased to transmit to you the following report to the 1997 Legislature on legislation introduced by the Joint Legislative Council:

RL 97-8 Legislation on Recodification of Fish and Game Laws (1997 Assembly Bill 864)

I would appreciate your including this letter in the Journal for their formation of the membership. Additional copies of this report are available at the Legislative Council Staff offices, One East Main, Suite 401, or from our web page at www.legis.state.wi.us/lc/jlcrecs.html.

Sincerely,

DAVID J. STUTE

Director

State of Wisconsin
Office of the Secretary of State

To the Honorable, the Senate:

<u>Bill, Joint Reso- lution or Resolu- tion Number</u>	<u>Act Number or En- rolled Number</u>	<u>Publication Date</u>
--	--	-------------------------

Senate Bill 331	Wisconsin Act 62	March 17, 1998
-----------------	------------------	----------------

Sincerely,
DOUGLAS LA FOLLETTE
Secretary of State

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

Senate Clearinghouse Rule 97-143

Relating to long-term care insurance.

Submitted by Department of Employee Trust Funds.

Report received from Agency, March 9, 1998.

Referred to committee on **Labor, Transportation and
Financial Institutions**, March 10, 1998.

Senate Clearinghouse Rule 98-005

Relating to kennel license fees.

Submitted by Department of Administration.

Report received from Agency, March 5, 1998.

Referred to committee on **Economic Development,
Housing and Government Operations**, March 10, 1998.

Senate Clearinghouse Rule 98-006

Relating to the physician and health care provider loan
assistance programs.

Submitted by Department of Commerce.

Report received from Agency, March 9, 1998.

Referred to committee on **Health, Human Services,
Aging, Corrections, Veterans and Military Affairs**, March
10, 1998 .

The committee on **Economic Development, Housing and
Government Operations** reports and recommends:

Senate Clearinghouse Rule 97-156

Relating to funding emergency grants under the community
development block grant program.

No action taken.

Gwendolynne Moore
Chairperson

ADJOURNMENT

Senator Risser, with unanimous consent, asked that the
Senate adjourn until Thursday, March 12 at 10:00 A.M..

Adjourned.

10:01 A.M.

AMENDMENTS OFFERED

Senate amendment 1 to **Senate Bill 454** offered by Senator
Wineke.