

STATE OF WISCONSIN
Senate Journal
Ninety–Fifth Regular Session

THURSDAY, September 20, 2001

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 40

Relating to: urging the U.S. Congress to designate The Highground Veterans Memorial Park a national park or a national monument.

By Senators Zien, Schultz, Burke, Huelsman, Roessler, Welch, Darling, Harsdorf and Lazich; cosponsored by Representatives Suder, Musser, Vrakas, Schneider, Kreibich, Huebsch, Albers, Ladwig, Owens, Turner, Balow, Urban, Freese, Gronemus, Rhoades, Plale, Hahn, Skindrud, Ott, Sykora, Krawczyk, Lassa, Gunderson, Ryba, Pettis, Petrowski and Starzyk.

To committee on **Health, Utilities, Veterans and Military Affairs**.

INTRODUCTION, FIRST READING AND REFERENCE OF BILLS

Read first time and referred:

Senate Bill 243

Relating to: increasing a school district's revenue limit for the costs of teaching school professional staff how to use digital technology and distance-learning technology.

By Senators Erpenbach and Grobschmidt.

To committee on **Education**.

Senate Bill 244

Relating to: school district use of educational technology block grants.

By Senator Erpenbach.

To committee on **Education**.

Senate Bill 245

Relating to: contribution rates under the Wisconsin retirement system.

By Senator Wirch; cosponsored by Representative Vrakas.

To joint survey committee on **Retirement Systems**.

Senate Bill 246

Relating to: references to the Internal Revenue Code for income and franchise tax purposes.

By Senator Burke; cosponsored by Representative Gard, by request of the Department of Revenue.

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

Senate Bill 247

Relating to: the membership of the child abuse and neglect prevention board.

By Senators Erpenbach and Darling.

To committee on **Universities, Housing, and Government Operations**.

Senate Bill 248

Relating to: prohibiting certain governmental subdivisions from providing or selling certain telecommunications services and Internet access services and from making certain transfers of telecommunications transmission facilities.

By Senators Shibilski, Breske, Moen, Rosenzweig, Welch, Kanavas, M. Meyer, Huelsman and Hansen; cosponsored by Representatives Kedzie, Huebsch, Suder, Gronemus, Musser, Stone, Seratti, Freese, Pettis, Walker, Skindrud, Nass and D. Meyer.

To committee on **Health, Utilities, Veterans and Military Affairs**.

REPORT OF COMMITTEES

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

MICKELSON, DR. DAVID M., of Madison, as a member of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists, to serve for the term ending July 1, 2005.

Confirmation.

Ayes, 5 – Senators Baumgart, Hansen, Wirch, Cowles and Schultz.

Noes, 0 – None.

MIYAMOTO, DOUGLAS "BUB" M., of La Crosse, as a member of the Lower Wisconsin State Riverway Board, to serve for the term ending May 1, 2004.

Confirmation.

Ayes, 5 – Senators Baumgart, Hansen, Wirch, Cowles and Schultz.

Noes, 0 – None.

Jim Baumgart
Chairperson

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

Senate Bill 128

Relating to: requiring health insurance policies to cover contraceptive articles and services.

Passage.

Ayes, 4 – Senators Robson, Moore, Wirch and Hansen.

Noes, 2 – Senators Roessler and Welch.

Referred to joint committee on **Finance** pursuant to Senate Rule 41 (1)(e)

Senate Bill 94

Relating to: funding for food pantries, granting rule-making authority, and making an appropriation.

Passage.

Ayes, 4 – Senators Robson, Moore, Wirch and Hansen.

Noes, 2 – Senators Welch and Kanavas.

Senate Bill 96

Relating to: regulation of social workers, advanced practice social workers, independent social workers, clinical social workers, marriage and family therapists, professional counselors, and art, music, and dance therapists, insurance coverage for services provided by clinical social workers, marriage and family therapists, professional counselors, granting rule-making authority, and providing a penalty.

Senate substitute amendment 1 adoption.

Ayes, 5 – Senators Robson, Moore, Wirch, Hansen and Kanavas.

Noes, 1 – Senator Welch.

Passage as amended.

Ayes, 5 – Senators Robson, Moore, Wirch, Hansen and Kanavas.

Noes, 1 – Senator Welch.

Judith Robson
Chairperson

PETITIONS AND COMMUNICATIONS

**THE STATE OF WISCONSIN
OFFICE OF THE GOVERNOR**

EXECUTIVE ORDER #24

Relating to the Governor's Pardon Advisory Board

WHEREAS, Article V, Section 6 of the Wisconsin Constitution vests in the Governor the exclusive and discretionary power to grant pardons, commutations and reprieves; and

WHEREAS, it is advantageous to the clemency applicants, the public and the Governor to have an informed review of each application for clemency; and

WHEREAS, such an informed review may ably be performed by a board of advisors; and

WHEREAS, all concerned will benefit from a uniform application process;

NOW, THEREFORE, I, SCOTT McCALLUM, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and laws of this state, and specifically by Section 14.019 of the Wisconsin Statutes, do hereby re-create the Governor's Pardon Advisory Board according to the following guidelines:

1. Membership. The Governor's Pardon Advisory Board shall consist of no more than seven members who serve a term of one year at the pleasure of the Governor.
 - (a) One member shall be appointed by the Governor to represent the Attorney General.
 - (b) One member shall be appointed by the Governor to represent the Secretary of the Department of Corrections.
 - (c) The Governor's Legal Counsel or his/her designee shall be a voting member and shall chair the board.
2. Functions and Operations. The Board shall review applications for executive clemency and make recommendations to the Governor as to each.
 - (a) Hearings

- (1) The Board shall hold a public hearing on each qualifying application at which hearing the applicant shall be heard.
- (2) Hearings shall be held subject to the discretion of the chair, at a date and place set at least two weeks in advance of the hearing.
- (b) Recommendations to the Governor
 - (1) After a hearing is concluded, the Board shall meet in closed executive session, as permitted by Wisconsin Stats. s. 19.85(1)(a), to arrive at a recommendation on the application. Four members constitute a quorum for executive action by the board.
 - (2) The factors the Board shall weigh in its decision include, but are not limited to, the severity of the offense, the time passed since discharge or conviction, the applicant's need for clemency and the applicant's activities and conduct since the offense.
 - (3) The chair shall convey to the Governor in writing the Board's recommendation for each application, along with dissenting recommendations, if any, and reasons given for each.
3. Manner and Form of Applications
 - (a) Scope
 - (1) These rules shall govern all applications for any form of clemency by an person except individuals currently incarcerated.
 - (2) All applications for any form of clemency to which these rules do not apply shall be governed by Wisconsin Statutes Sections 304.08 through 304.11.
 - (b) Form and Contents
 - (1) Applications for any form of Clemency shall be in writing, signed by the person seeking clemency, notarized by a notary public and submitted to the Governor.
 - (2) Applications shall contain the following information:
 - a. the name of the applicant
 - b. the applicant's current address and mailing address if different
 - c. the applicant's date of birth
 - d. the exact form of clemency sought
 - e. the conviction(s) from which relief is sought
 - f. the court that imposed sentence (county and branch)
 - g. the date of sentencing
 - h. the sentence imposed
 - i. the place of incarceration (if applicable)
 - j. a description, in the applicant's own words, of the circumstances of the crime
 - k. a statement of any facts which the applicant believes justify clemency, including activities since conviction, employment history and information pertaining to the applicant's need for clemency
 - l. subsequent contacts with law enforcement
 - m. whether the applicant has applied for clemency in the past and what date the application was decided by the Governor
- (3) The Governor, through the office of Legal Counsel, may set other conditions,

requirements and procedures in relation to the application process, including but not limited to, prerequisites and conditions for applying for clemency.

- (c) Service of Notice
 - (1) The applicant shall serve on the judge of the court of conviction and on the district attorney of the county of conviction, a notice of application which shall contain the information required in the application by s. 3(b) of this order.
 - (2) Service of notice may be by mail, but the Governor's office must be given proof of service by providing a copy of the notice as signed or stamped by the person upon whom notice was served.
- (d) Court Records
 - (1) The applicant shall obtain and provide to the Governor's Office certified copies of the following court records for all convictions for which the person is seeking clemency:
 - a. The indictment, information or complaint; and
 - b. The judgment of conviction and sentencing
 - (2) If copies of any of the required court records are unavailable, the applicant shall submit to the Governor's Office a letter from the clerk of courts of the county of conviction stating that copies are unavailable.
- (e) An application shall be complete when it contains the information and documents required by subsections (a), (b) and (c) of this section.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this twelfth day of September in the year two thousand and one.

SCOTT McCALLUM
Governor

BY THE GOVERNOR:
DOUGLAS LA FOLLETTE
Secretary of State

**State of Wisconsin
Department of Health and Family Services**

The Honorable, The Legislature:

In accordance with sec. 1.11(2)(j) Wis. Stats., the Department of Health and Family Services reports that it has not conducted any Environmental Assessments or Environmental Impact Statements during the reporting period of July 1, 2000, through June 30, 2001.

Sincerely,
PHYLLIS J. DUBE
Secretary

**State of Wisconsin
Legislative Audit Bureau**

September 18, 2001

The Honorable, The Legislature:

At the request of the Department of Health and Family Services, we have completed a financial audit of the Health Insurance Risk-Sharing Plan (HIRSP) for fiscal year (FY) 1999-2000. HIRSP provides medical insurance for nearly 11,500

policyholders who are unable to obtain coverage in the private market. We have provided an unqualified opinion on HIRSP's financial statements and have followed up on issues raised in prior audits.

One of these issues relates to overpayment of prescription drug claims. From July 1998 through January 2001, the Department did not have controls in place to ensure that policyholders and pharmacies were reimbursed for prescription drugs at HIRSP-allowed rates. As a result, HIRSP overpaid drug claims by an estimated \$5.5 million. The Department has reinstated system controls to reimburse drug claims at HIRSP-allowed rates, and it plans to begin recovery of overpayments in fall 2001. However, because of these efforts, at least 160 pharmacies have withdrawn from the program. The Department has recently implemented an on-line pharmacy claims processing system, which it expects will help to address pharmacy concerns and streamline the drug claims process.

Another major issue pertains to HIRSP's funding approach. In April 2001, the Board of Governors voted to implement an accrual-based funding approach in response to our prior audit recommendations, and following extensive debate. HIRSP's actuary projects that in fiscal year (FY) 2001-02, the change from a cash-based to an accrual-based approach will require additional \$16.6 million to fund an accumulated accounting deficit. An excess policyholder premium reserve will fund the policyholders' share; the required contributions paid by health care providers are expected to meet their share; and insurers will fund their share through their semi-annual assessments.

We appreciate the courtesy and cooperation extended to us by the Department and the plan administrator for HIRSP. A response from the Department is Appendix 2.

Sincerely,
JANICE MUELLER
State Auditor

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

Senate Clearinghouse Rule 01-020

Relating to supervision of precertification supervised practice of social work.

Submitted by Department of Regulation and Licensing.

Report received from Agency, September 14, 2001.

Referred to committee on **Human Services and Aging**, September 20, 2001.

Senate Clearinghouse Rule 01-045

Relating to the use of force to prevent escapes, pursue and capture escaped persons detained or committed under chapter 980, stats., and to provide security at facilities housing such persons.

Submitted by Department of Health and Family Services.

Report received from Agency, September 19, 2001.

Referred to committee on **Economic Development and Corrections**, September 20, 2001.

Senate Clearinghouse Rule 01-060

Relating to contact lens prescription release by optometrists.

Submitted by Department of Regulation and Licensing.

Report received from Agency, September 14, 2001.

Referred to committee on **Health, Utilities, Veterans and Military Affairs**, September 20, 2001.

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

Senate Clearinghouse Rule 99–071

Relating to the eligibility of nonparent relatives of children to receive kinship care benefits to help them provide care and maintenance for the children.

Report objection recommended:

Ayes, 6 – Senators Robson, Moore, Wirch, Hansen, Roessler and Kanavas.

Noes, 1 – Senator Welch.

Referred to joint committee for **review of Administrative Rules**, September 20, 2001.

Judith Robson
Chairperson

The committee on **Labor and Agriculture** reports and recommends:

Senate Clearinghouse Rule 01–061

Relating to the definition of unprofessional conduct of the practice of veterinary medicine.

No action taken.

David Hansen
Chairperson