

STATE OF WISCONSIN
Senate Journal
Ninety–Sixth Regular Session

FRIDAY, January 10, 2003

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 4

Relating to: the life and public service of Roman R. Blenski, Sr.

By Senators Carpenter and Grobschmidt.

To committee on **Senate Organization**.

INTRODUCTION, FIRST READING AND REFERENCE OF BILLS

Read first time and referred:

Senate Bill 1

Relating to: service as a commissioner on uniform state laws.

By Senator Panzer; cosponsored by Representative Gard.

To committee on **Homeland Security, Veterans and Military Affairs and Government Reform**.

Senate Bill 2

Relating to: providing a penalty of either death or life imprisonment for first–degree intentional homicide, affecting eligibility for supervised release, and granting rule–making authority.

By Senators A. Lasee, Roessler, Welch, S. Fitzgerald and Zien; cosponsored by Representatives F. Lasee, Suder, Kreibich, Hines, Owens, Ainsworth and Vrakas.

To committee on **Judiciary, Corrections and Privacy**.

Senate Bill 3

Relating to: the specialized transportation assistance program, minimum qualifications for the operator of a human service vehicle, the registration of human service vehicles, and providing penalties.

By Senators Lazich, A. Lasee, Stepp and Darling; cosponsored by Representatives Gundrum, Stone, Gunderson, Turner, Ladwig, Musser, Ainsworth, Kerkman, Plale, Lassa, Steinbrink and Van Roy.

To committee on **Transportation and Information Infrastructure**.

Senate Bill 4

Relating to: possession of methamphetamine and providing a penalty.

By Senators Harsdorf, A. Lasee, Kedzie and Schultz; cosponsored by Representatives Rhoades, Gronemus, Pettis, Ladwig, Jeskewitz, Musser, Kreibich, Freese, Suder, Ward, Kaufert, Hines, Bies, Hahn, Krawczyk, Ott, Shilling and LeMahieu.

To committee on **Judiciary, Corrections and Privacy**.

PETITIONS AND COMMUNICATIONS

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

Pursuant to Senate Rule 20(1)(c), the following shall be the committees of the Senate for the 2003-2004 legislative session.

Administrative Rules; committee for review of: (5)

Agriculture, Financial Institutions and Insurance; committee on: (5)

Audit, committee on: (5)

Criminal Penalties; committee on: (5)

Economic Development, Job Creation and Housing; committee on: (5)

Education, Ethics and Elections; committee on: (7)

Energy and Utilities; committee on: (5)

Environment and Natural Resources; committee on: (5)

Finance; committee on: (8)

Health, Children, Families, Aging and Long Term Care; committee on: (9)

Higher Education and Tourism; committee on: (5)

Homeland Security, Veterans and Military Affairs and Government Reform; committee on: (5)

Judiciary, Corrections and Privacy; committee on: (5)

Labor, Small Business Development and Consumer Affairs; committee on: (5)

Transportation and Information Infrastructure; committee on: (5)

Ayes, 5 – Senators Panzer, Zien, Lasee, Erpenbach and Hansen.

Noes, 0 – None.

MARY E. PANZER

Chair, Committee on Senate Organization

State of Wisconsin

January 8, 2003

The Honorable, The Senate:

Pursuant to Senate Rule 20 (2)(a), I have made the following appointments to Senate committees:

To the Senate committee on Agriculture, Financial Institutions and Insurance: Senators Schultz, (Chair), Brown, Kedzie, Robson and Hansen,

To the Senate committee on Economic Development, Job Creation and Housing: Senators Stepp, (Chair), Roessler, Brown, Moore and Meyer,

To the Senate committee on Education, Ethics and Elections: Senators Ellis (Chair), Fitzgerald, Reynolds, Stepp, Jauch, Robson and Hansen,

To the Senate committee on Energy and Utilities: Senators Cowles, (Chair), Lazich, Leibham, Wirch and Meyer,

To the Senate committee on Environment and Natural Resources: Senators Kedzie, (Chair), Stepp, Zien, Risser and Wirch,

To the Senate committee on Health, Children, Families, Aging and Long Term Care: Senators Roessler, (Chair), Kanavas, Brown, Welch, Schultz, Robson, Chvala, Jauch, Carpenter.

To the Senate committee on Higher Education and Tourism: Senators Harsdorf, (Chair), Schultz, Cowles, Breske and Chvala,

To the Senate committee on Homeland Security, Veterans and Military Affairs and Government Reform: Senators Brown, (Chair), Zien, Fitzgerald, Wirch and Breske,

To the Senate committee on Judiciary, Corrections and Privacy: Senators Zien, (Chair), Fitzgerald, Stepp, George and Carpenter,

To the Senate committee on Labor, Small Business Development and Consumer Affairs: Senators Reynolds, (Chair), Kedzie, Zien, Decker and Hansen,

To the committee on Transportation and Information Infrastructure: Senators Leibham, (Chair), Kanavas, Kedzie, Breske and Meyer,

To the Joint committee for Review of Administrative Rules: Senators Leibham, (Co-Chair), Welch, Lazich, Robson and Carpenter,

To the Joint committee on Audit: Senators Roessler, (Co-Chair), Cowles, Darling, George and Hansen,

To the Joint committee on Finance: Senators Darling, (Co-Chair), Welch, Fitzgerald, Harsdorf, Kanavas, Lazich, Decker and Moore,

To the Joint Legislative Council: Senators Lasee, (Co-Chair), Panzer, Darling, Welch, Harsdorf, Ellis, Lazich, Risser and George,

To the Joint Survey committee on Retirement Systems: Senators Schultz, (Co-Chair), Reynolds and Wirch,

To the Joint Survey committee on Tax Exemptions: Senators Ellis, (Co-Chair), Harsdorf and Decker,

To the Joint review committee on Criminal Penalties: Senator Fitzgerald, (Co-Chair).

With regard to members of the minority party, appointments are made based on nominations made by that caucus.

Sincerely,

MARY E. PANZER

Chair, Committee on Senate Organization

State of Wisconsin

January 8, 2003

The Honorable, The Senate:

To the Council on Alcohol and Other Drug Abuse: Senators Roessler

To the Wisconsin Artistic Endowment Foundation: Senators Darling

To the State Building Commission: Senators Roessler, Cowles

To the Child Abuse and Neglect Prevention Board: Senators Brown

To the Council on Domestic Abuse: Senators Roessler

To the Education Commission of the States: Senator Ellis

To the Educational Communications Board: Senator Leibham

To the Environmental Education Board: Senators Kedzie

To the Council on Forestry: Senators Welch

To Forward Wisconsin: Senators Fitzgerald

To the Heritage Tourism Council: Senators Lazich

To the Council on Highway Safety: Senators Kanavas

To the Historical Society Board of Curators: Senators Schultz

To the Migrant Labor Council: Senators Welch

To the Milwaukee Child Welfare Partnership Council: Senators Darling

To the Mississippi River Parkway Commission: Senators Harsdorf

To the Rural Economic Development Board: Senators Brown

To the Sentencing Commission: Senators Zien

To the Small Business Environmental Council: Senators Reynolds

To the State Capitol and Executive Residence Board: Senators Leibham, Schultz

To the State Fair Park Board: Senator Kanavas

To the State Supported Programs Study and Advisory Committee: Senators Cowles, Roessler, Stepp

To the Council on Tourism: Senators Zien

To the Transportation Projects Commission: Senators Lasee, Leibham, Schultz

To the Wisconsin Housing and Economic Development Authority: Senators Stepp

To the World Dairy Center Authority: Senator Harsdorf.

With regard to members of the minority party, appointments are made based on nominations made by that caucus.

Sincerely,

MARY E. PANZER

Chair, Committee on Senate Organization

State of Wisconsin

January 6, 2003

The Honorable, The Senate:

Pursuant to section 13.15 of the Wisconsin Statutes and Senate Rule 5, I do hereby appoint Donna J. Doyle as Assistant Chief Clerk of the Wisconsin Senate, giving her all powers and duties as are derived from and inherent in said position and to perform the duties and functions of the office in the absence of the Senate Chief Clerk.

Sincerely,

DONALD J. SCHNEIDER

Senate Chief Clerk

State of Wisconsin

January 6, 2003

The Honorable, The Senate:

I am submitting my letter of resignation effective at noon Tuesday, January 7, 2003.

It has been my honor to represent the people of the 24th Senate District since my election in 1995, and a privilege to serve with so many outstanding people in the Wisconsin State Senate.

I look forward to working with you and my former colleagues in my new capacity as Secretary of the Department of Tourism.

Sincerely,

KEVIN SHIBILSKI
State Senator
24th Senate District

**State of Wisconsin
Department of Administration**

December 19, 2002

The Honorable, The Legislature:

This report is transmitted as required by sec. 20.002(11)(f) of the Wisconsin Statutes, (for distribution to the appropriate standing committees under sec. 13.172(3) Stats.), and confirms that the Department of Administration has found it necessary to exercise the "temporary reallocation of balances" authority provided by this section in order to meet payment responsibilities and cover resulting negative balances during the month of November 2002.

On November 22, 2002, the **Wisconsin Health Education Loan Repayment Fund** cash balance closed at a negative \$1 thousand. The negative balance continued until November 27, 2002, when the balance closed at a positive \$12 thousand. The **Wisconsin Health Education Loan Repayment Fund** cash balance reached a low of negative \$2 thousand on November 25, 2002. The negative balance was due to the difference in the timing of revenues and expenditures.

The Wisconsin Health Education Loan Repayment Fund's negative cash balance was not in excess of the statutory interfund borrowing limitation and did not exceed the balances of the funds available for interfund borrowing.

The distribution of interest earnings to investment pool participants is based on the average daily balance in the pool and each fund's share. Therefore, the monthly calculation by the State Controller's Office will automatically reflect the use of these temporary reallocations of balance authority.

Sincerely,

GEORGE LIGHTBOURN
Secretary

Referred to the joint committee on **Finance**.

**State of Wisconsin
Department of Revenue**

January 2, 2003

The Honorable, The Legislature:

In accordance with Section 9143 (2z) of [2001 Wisconsin Act 16](#), I am enclosing the Department of Revenue's study regarding moving tax processing activities to southwestern Wisconsin.

The Department has concluded that moving our tax processing activities away from their centralized location in Madison to another part of the state would not be the most cost-effective or efficient use of the state's limited resources. Some of the important reasons DOR believes that our processing activities should remain in Madison include:

Efficient use of equipment, space and other physical resources. The department has a new building in Madison that was specifically designed to accommodate tax processing activities.

Security and confidentiality of tax records. The department's existing consolidated location for tax processing lends itself well to maintaining the security and confidentiality of tax records that we strive for. Transportation of records to a location outside of our central office adds a new level of

complexity to processing and may introduce opportunities for security and confidentiality breaches.

Additional cost. Our cost estimates indicate that moving tax processing to a location outside of Madison would result in substantial one-time costs as well as increased on-going costs. DOR continues to work to maintain a stable, integrated tax-processing environment. Our primary focus has been to increase electronic filing, paying, and other forms of electronic business. In the future, we see further reduction of costly and time consuming manual processing of paper documents and reduced reliance on LTE staff through implementation of more efficient processing technologies and procedures.

The enclosed report details our research regarding a possible processing move and includes a detailed cost assessment. Please contact Sherrie Gates-Hendrix if you have questions or would like further information regarding this report.

Sincerely,

RICHARD G. CHANDLER
Secretary of Revenue

**State of Wisconsin
Department of Transportation**

January 6, 2003

The Honorable, The Senate:

Please find enclosed the final report for the Passive Alcohol Sensors Study mandated by former Governor Scott McCallum. The Department of Transportation is submitting this report to you and members of the Wisconsin Legislature who have expressed an interest in alcohol detection and passive alcohol sensors, along with members of Wisconsin law enforcement, judiciary, and advocacy groups.

Please contact us if you have any questions or require additional copies of the report. We hope this report will be used as a resource for the Legislature when considering proposals related to alcohol detection.

Sincerely,

LORALEE BRUMUND, Wisconsin State Patrol
TIMOTHY MCCLAIN, Bureau of Transportation Safety

**State of Wisconsin
Department of Transportation**

December 20, 2002

The Honorable, The Legislature:

I am pleased to submit the Final Report of the Governor's Airport Financing Committee, which was developed by dedicated representatives of the Department of Transportation, the Department of Commerce, airport managers, airlines serving this state, the general aviation community, the people of this state, and private businesses with an interest in transportation policy and financing. I think you will find that the hard work of the Committee has resulted in a thorough discussion of the issues related to airport needs and financing in Wisconsin.

The Governor's Airport Financing Committee was created in the 2001-2003 Biennial Budget ([2001 Wisconsin Act 16](#)) in response to challenges encountered by the Governor, the Legislature and the Wisconsin Department of Transportation (WisDOT) during the budget process. Wisconsin Act 16 charged the Committee:

to review and evaluate the state's airport system needs and the current system of funding those needs and to recommend changes, if any, to better meet those needs;

to evaluate, among other things: aircraft registration fees; aviation fuel taxes and fees; allocation of sales tax receipts from the sale of aircraft, parts, and services; and the allocation of other moneys for airport financing;

to make recommendations, if any, to generate revenue in amounts equal to or greater than the sum of moneys appropriated for aeronautical activities in fiscal year 2002.

The Committee met on five occasions between April and December 2002 to hear reports on specific aviation finance issues and to discuss alternative ways of meeting Wisconsin's airport financing challenges. The Committee studied topics identified in the Legislature's charge plus other issues identified by individual committee members. A variety of innovative aviation revenue initiatives were discussed, and the Committee set goals and criteria to evaluate proposed revenue initiatives.

The final months of the Committee's process were dedicated to evaluating revenue options to determine how best to meet both near-term and more long-term airport needs in Wisconsin. The recommendations of the report address the near and long-term aviation revenue needs of the State and the current system of funding those needs.

A solid transportation infrastructure is important to Wisconsin, and public airports in Wisconsin represent an essential part of that infrastructure. We are ready to assist you in any way possible as you tackle the challenging task of addressing our airport needs.

Sincerely,

PATRICK O. GOSS

Deputy Secretary

Airport Financing Committee Chair

**State of Wisconsin
Office of the Governor**

January 6, 2003

The Honorable, The Senate:

Please withdraw the following appointments that are pending in the Senate:

Bernie A. Abrahamson

Raymond Allen

Beverly J. Anderson

Gordon R. Baldwin

Herbert F. Behnke

Charles E. Bena

Daniel P. Blask

Lorraine M. Blaubach

Robert C. Blessington

Rose E. Boron

Mark T. Braden

Richard A. Brock

DeAnn L. Brosman

Ritchie J. Brown

Paul E. Bucher

Thom A. Ciske

J. Michael Clumpner

Hector Colon

William Cress

Dr. JoAnn Noe Cross

Kay M. Czaplewski

Jan D'Amico-Dove

Philip J. Dahlberg

Andrew S. Diercks

James W. Dorn

Ronald C. Engelke (2)

Larry Erickson

David B. Falstad

Dr. Dennis Farrar

John Farrow

Edward F. Fenhaus

Larry T. Finley

Nicole M. Gladney

William N. Godfrey

Richard Graber

Dr. Kerry L. Griebenow

Dr. Leon D. Griffin

Bill L. Gronley (2)

Dr. L. Kevin Hamberger

Jon D. Hammes (State of Wisconsin Investment Board only)

Muriel J. Harper

Sandra K. Heidel

Tee Heiser

Dr. Jean M. Heyt-Thompson

Greg A. Hilbert

James A. Holte

Gilbert L. Homstad

David R. Huebsch

Margaret B. Humleker

Cynthia L. Jarvis

Norbert J. Johnson

Ruth G. Johnson

Marilyn A. Kaufmann

Michael A. Keever

Thomas J. Kilkeny

James R. Klauser

JoAnn Kleman

Douglas L. Klitzkie

John W. Knuteson

Phyllis J. Krutsch

David Ladd

Clifford F. LeCleir

Harold (Hal) N. Lee

Brian S. Levy

Thomas A. Lisle

Jon E. Litscher

Dr. Thomas J. Luetzow

William S. Lundberg

Lee Madden

Edward D. Main

Ronald K. Malone

John McCabe

Michael D. Meeuwsen

V. Martin Metcalfe

Mary Anne Moore-Church

John F. Nelson

Yakov N. Nenaydykh

George E. Nettum

John Noreika

Richard Nowacki

Kathryn M. Osborne

Harry A. Parrott

Alma D. Peters

John D. Phillips

Jeff Pickerign
 Charles R. Pittelkow
 Howard "Dan" Poulson
 Willaim A. Raaths
 Richard F. Raemisch
 Gerard A. Randall Jr.
 Kathleen M. Rasmussen
 Joel Read
 Mary Reavey
 L. Anne Reid
 Jennifer Reinert
 Frederick T. Rikkers
 James T. Rogers
 Jean Rogers
 Linda Roos-Stutz
 Donna M. Rozar
 Dr. Jeff M. Sarazen
 Jerry J. Schallock
 Lee Schmalz
 Lolita Schneiders
 Patricia A. Schultz
 Robert Skinner
 Bill G. Smith
 Steven R. Sorenson
 Andrea Steen Crawford
 George K. Steil (2)
 Lisa Stewart-Boettcher
 Kathleen F. Stolpman
 Peter A. Sveum
 Gary "Joe" Sweeney
 Dr. Elmer R. Taake
 Mathew P. Tharaniyil
 Francis R. Thousand
 Danny Trotter
 Debra S. Truckey
 Mary Jo Walsh
 Cheryl A. Weisensel
 Darylann T. Whitemarsh
 Gerald L. Wilkie
 E. Ray Willoughby
 Dale C. Zabel
 John J. Zwadich
 Mark A. Zwaska
 Sincerely,
JIM DOYLE
 Governor

**State of Wisconsin
 Claims Board**

January 9, 2003

The Honorable, The Senate:

Enclosed is the report of the State Claims Board covering the claims heard on December 19, 2002.

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,

JOHN E. ROTHSCHILD
 Secretary

STATE OF WISCONSIN CLAIMS BOARD

The State Claims Board conducted hearings at the Department of Administration Building, St. Croix Room, Madison, Wisconsin, on December 19, 2002, upon the following claims:

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
1. Russell & Edna Jeske	Department of Revenue	\$29,955.61
2. Terrance A. Kaucic	Department of Revenue	\$14,553.26
3. Megan E. Weinhandl	University of Wisconsin	\$70.00
4. Genevieve G. McBride	University of Wisconsin	\$2,805.00

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

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
5. Tara Hoekman	Department of Health and Family Services	\$7,768.55
6. Jeremy S. Daubon	Department of Corrections	\$70.40
7. Dennis Gonzalez	Department of Corrections	\$144.50
8. Dennis Gonzalez	Department of Corrections	\$32.16
9. M.H. Ranch, Inc.	Department of Transportation	\$1,636.40
10. Heinn/Trend Corporation	Department of Administration	\$23,291.32

The Board Finds:

1. Russell and Edna Jeske of New Berlin, Wisconsin claim \$29,955.61 for overpayment of property taxes. The claimants state that they sold 2 acres of land to a developer in 1984. This land was added to the developer's tax parcel but was not removed from the claimants' tax parcel, allegedly due to an error by DOR. As a result, the claimants paid taxes from 1984 to 1999 on two acres of land that they no longer owned. The new owner of the land also paid taxes on the 2 acres. The claimants state that they discovered the error in 1999 when they hired a third party to conduct a real estate appraisal. The claimants state that they received a notice in May 1999, in which DOR allegedly admitted that they had made an error. The claimants did receive a partial refund for the overpayment from the Village of Elm Grove in the amount of \$3,660 for the year 1999. The claimants also note that the description on their property tax bill did change in 1990. Prior to that year, the description read "3AC" but in 1990 the description stated "0.895AC," the correct description. Despite the change, however, there was no reduction in the claimants' taxes from 1990 to 1999. The claimants request reimbursement for the amount they overpaid on the land they no longer owned.

DOR recommends denial of this claim. DOR is responsible for assessing all manufacturing property, however, the taxes on such property are collected and kept by the local municipality, not DOR. DOR states that it was not notified of the sale of the 2

acres until 1999. DOR states that it relies on owners of property to report changes in property ownership. Section 70.995(12)(a), Stats., provides that manufacturers shall submit an annual form to DOR for each real estate parcel assessed. DOR records indicate that no change in ownership was ever reported on this form. DOR states that they made the appropriate changes as soon as they were notified of the change in ownership. DOR states that it is usually the municipality's responsibility to notify DOR when they split a parcel of land. DOR also states that it is the local municipality that is responsible for sending out the tax bill and collecting the payment. Finally, DOR points to the fact that state statutes allow for a 60-day period to appeal an annual assessment. DOR states that the claimants never filed any appeal to their annual assessments, so the assessments became final and the appeal periods for all years in question have long since expired.

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 neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

2. Terrance A. Kaucic of Milwaukee, Wisconsin claims \$14,553.26 for overpayment of employee withholding taxes related to his now defunct corporation, Northern Building Products. The claimant states that he owed \$35,625.04 in taxes and that DOR began taking large monthly payments from him in 1990, which continued until July 2002. The claimant states that the garnishments had a severe negative impact on his financial situation and also alleges that they led to his divorce. The claimant later discovered that he had overpaid the amount owed by \$14,553.26. The claimant believes that, in fairness, this money should be returned to him.

DOR recommends denial of this claim. DOR states that in April 1993, it issued an estimated assessment based on the claimant's failure to file withholding tax reports for June 1991 through September 1991. That assessment was due May 31, 1993. DOR records indicate that certification of the claimant's wages began in January 1994 and continued for eight years with three different employers. DOR alleges that during this time period, it held several informal hearings with the claimant and that DOR twice lowered the certification percentage in response to the claimant's complaints that he could not live on his reduced income. DOR states that the claimant inquired about a petition for compromise in April 1998 and that he was advised at that time to file the missing reports. On May 5, 1999, the claimant's request for amnesty was denied based on his failure to file the requested reports. DOR states that in January 2001, it informed the claimant's Power of Attorney that the reports needed to be filed. According to DOR records, the claimant contacted DOR in September 2001 and stated that he had no records and therefore could not file the reports. Another hearing was held in July 2002 to discuss the claimant's wage certification. At that time the estimated assessment was compromised under the fair and equitable provisions of s. 71.92(4), Stats. DOR personnel prepared mock withholding reports based on previous withholding tax and the remaining balance of the assessment was cancelled. Based on the mock tax reports, the calculated overpayment on the assessment is \$18,810.63. DOR points to the fact that at no time did the claimant ever provide the actual tax information needed to calculate the correct tax liability, which would have allowed him to file a claim for refund of any overpayments.

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 neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

3. Megan E. Weinhandl of Marengo, Illinois claims \$70.00 for money that was allegedly stolen while she was attending a summer camp at the UW. The claimant and other campers were housed in a UW dormitory and were all given keys to their rooms. Police reports indicated that sometime between 9:15 and 11:30 a.m. on July 17, 2002, an unknown person entered the dormitory and stole items and cash from the campers' rooms. The claimant states that her door was locked at the time of the thefts but that \$70 was stolen from her room. The police report indicates that there was no sign of forced entry to the claimant's room. The claimant points to the fact that the room doors can only be locked from outside the room using the key, therefore, the only way that the claimant's door could be locked after the theft was with a master or room key. The claimant also points to the fact that one of the other rooms involved in the thefts was found locked with the room keys still inside the room. The claimant believes that this evidence proves that the thief would have had to possess a master key to enter the rooms and she therefore believes that the UW was negligent in its handling of keys.

The UW recommends denial of this claim. The UW alleges that, at the time of the thefts, all building keys were accounted for. The UW states that the doors to the building were locked between 11:30 p.m. and 6:30 a.m. but that they remained open during the daytime. The UW states that it finds no evidence that the theft was due to negligence by any state employee. The UW believes that it exercised due care in providing facilities to campers and that it should not be held responsible for the claimant's loss.

The Board concludes the claim should be paid in the amount of \$70.00 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the University of Wisconsin appropriation s.20.285 (5)(h), Stats.

4. Genevieve G. McBride of Milwaukee, Wisconsin claims \$2,805.00 for attorney's fees allegedly incurred because of her employment at the UW. The claimant has been a faculty member of the Department of Journalism and Mass Communication at UW-Milwaukee (Department) with graduate faculty status since 1990. The claimant states that in August 2000, the Department informed her that it was not renewing her graduate faculty status. The claimant alleges that this constituted a significant demotion, which impacted her responsibilities and would have resulted in a loss of significant amounts of research time and research publication activities, which would have a negative impact on her future professional advancement. The claimant appealed the Department's decision. The claimant hired an attorney to assist her with her appeal, which required many months of committee hearings, and she eventually prevailed when the Graduate Faculty Council overturned the Department's decision. The claimant believes that, as a state employee and pursuant to s. 895.46(1)(a) and s. 14.11(2)(a), Stats., she should be reimbursed for her attorney's fees, which she states were incurred in the course of her duties as a UW employee. The claimant states that her legal fees are reasonable. She states that her research finds no legal requirement that this request be filed within a specified time frame and also alleges that she was unaware that she had an option for reimbursement through the State Claims Board until she saw recent media coverage regarding legal costs for legislative employees.

The UW recommends denial of this claim. First, the UW believes that the claim is untimely. Although the UW recognizes that there is no formal statute of limitations governing the filing of this claim, the UW does not believe that it should now be held responsible for legal expenses associated with an event that occurred so long ago. The UW also points to the fact that the Wisconsin Supreme Court has held that a

university professor is not entitled to attorney's fees for legal services rendered in an optional internal grievance procedure. The UW also believes that awarding this claim would, "in effect institutionalize the presence of attorneys in internal university proceedings and would undermine the notions of faculty governance and make such proceedings highly adversarial." The UW believes that even in the most unusual circumstances, the faculty grievance process involves familiar and accessible participants, procedures and language and therefore does not require the services of an attorney to act as an "interpreter." The UW also states that there is no evidence that the claimant would have been unsuccessful without the assistance of her attorney because the arguments raised in her favor were neither novel nor particularly legal in nature. Finally, the UW objects to the amount of attorney's fees requested by the claimant. The submitted billing simply contains the notation "Re: Discrimination" (an issue that the claimant never raised during her appeal). Furthermore, the UW points to the fact that although this incident began in August 2000, and the final appeal decision was issued in early November 2000, the bill submitted by the claimant is for services from September 1, 2000 through April 18, 2001. The claimant has provided no explanation or justification for any fees incurred during the five-month period after the conclusion of her appeal.

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 neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. Tara L. Hoekman of Beloit, Wisconsin claims \$7,768.55 for unpaid medical bills for herself and her daughter, which allegedly should have been paid by Medical Assistance (MA). The claimant alleges that she was told by her caseworker that she should be covered for all dates of service in question. The claimant states that she was not aware of any unpaid medical bills until she received a copy of her credit report and found that there were collections actions against her for medical bills not covered by MA. The claimant states that she never received any notices of unpaid bills from either the hospital or the MA program. The claimant alleges that, after she discovered the problem with the bills, she went to her caseworker, who told her that she was fully covered for all dates in question, but that some of her coverage had been applied retroactively. The claimant alleges that the caseworker told her that because some of her MA coverage was retroactive, the claimant should have received bills for some of her medical services. The claimant states that she never received any bills. The claimant believes that both she and her daughter were fully covered for all dates in question and requests payment of the unpaid medical bills, which are damaging her credit.

DHFS believes that this claim should be denied. DHFS does not agree that the claimant and her daughter were covered for all dates of service as she alleges. DHFS records indicate that there are five dates of service for which the claimant and/or her daughter were not eligible for MA coverage. Disputes regarding MA eligibility are handled by appealing to the Division of Hearings and Appeals in a timely manner. DHFS states that the claimant was notified every time her MA eligibility changed and that she never filed any appeal to those changes. DHFS believes that appealing these changes now is untimely and that it is inappropriate for the Claims Board to address the claimant's eligibility issues at this time. DHFS states that in October 1988, the claimant did not appear in the computer system, so Beloit Memorial Hospital did not file a claim with the MA program for services provided to the claimant. When this was discovered in November 1999, Rock County Human Services manually certified the claimant for MA coverage retroactive to September 1998. DHFS points to

the fact that state regulations provide that claims for payment related to retroactive eligibility must be received within 180 days of the mailing of the retroactively dated card to the MA recipient. Beloit Memorial Hospital alleges that the claimant never told them about the retroactive eligibility within the 180 time frame. DHFS believes that it was the claimant's responsibility to pursue this in a timely manner and that she failed to do so. Finally, DHFS notes that the claimant has not actually paid any of the bills for which she is requesting reimbursement and, even if she had, state law prohibits any direct reimbursement to a MA recipient.

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 neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

6. Jeremy S. Daubon of Boscobel, Wisconsin claims \$70.40 for the cost of books, photographs and a catalog allegedly lost by DOC personnel. The claimant, an inmate at the Wisconsin Secure Program Facility, states that on January 7, 2002, he was caught sliding an envelope of photos under his door. He alleges that the photos were confiscated by DOC but were later missing from his property box. He states that on April 5, 2002, after he was demoted to a lower status, DOC personnel confiscated his books, two of which are now missing from his property. He also alleges that he is missing a catalog. He states that he was not allowed to have catalogs in his cell but that they were placed in his property box, to which he was only allowed supervised access. The claimant disagrees with DOC's assertion that the receipt he submitted for his books is not legitimate. He states that he has other handwritten receipts for book purchases because the companies from which he orders the books are not "traditional" bookstores. The claimant believes that just because the receipt is informal does not mean that it is invalid. The claimant states that DOC does not deny losing his photographs, but instead rejects that portion of his claim based on technicalities. He further alleges that DOC officers do not properly document the property they take when the confiscate items. Finally, The claimant believes that the burden of proof is upon DOC and that DOC cannot prove that he did not lose the property for which he is claiming reimbursement.

DOC recommends denial of this claim. DOC would like to first point out that the claimant originally alleged that his copy of the Administrative Code also was lost by DOC and submitted a receipt as "evidence" of that loss. This receipt actually belongs to another inmate, Dennis Gonzalez, who had used it as evidence in his own claim to the Claims Board. The claimant altered this receipt and falsely submitted it as his own in an attempt to deceive the board. DOC states that it investigated the claimant's complaint of a lost catalog and found that there was an envelope in his property box from the company in question, which contained two catalogs. Although the claimant denied that either of these was the allegedly missing catalog, DOC believes that he failed to submit any proof of an additional catalog. DOC records indicate that the claimant did file an Inmate Complaint regarding his allegedly lost pictures but that this complaint was filed over one month after the alleged incident, well past DOC's 14 day limit and the complaint was therefore dismissed as untimely. DOC also believes that the receipt submitted by the claimant as evidence of the two allegedly lost books is extremely suspicious. The receipt shows a printed, company letterhead but then only contains handwritten notation of the book titles and price, plus shipping and handling. There is no date, customer information or payment information. DOC strongly suspects that the claimant has also fabricated this receipt. DOC believes that the only "evidence" submitted in support of this claim has been manufactured by the claimant. Given the claimant's outright

fabrications and attempts to deceive the board, DOC does not believe there is any equitable basis for payment of this 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 neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

7. Dennis Gonzalez of Boscobel, Wisconsin claims \$144.50 for additional compensation for photographs lost by DOC. The claimant, an inmate at the Wisconsin Secure Program Facility, states that DOC lost or stole 56, 8 x 10 color photographs. The claimant filed an inmate complaint and was reimbursed \$140.00, half the cost of the photographs. The claimant alleges that these photographs do not depreciate, but instead increase in value over time. He therefore requests that he be awarded the remaining value of the photographs, plus the cost of shipping.

DOC recommends denial of this claim. DOC states that, while it was unfortunate that the claimant's property was misplaced, DOC has followed its standard policy in addressing the issue. DOC states that the claimant was reimbursed for 50% of the cost of each photograph (\$2.50 each) in accordance with DOC's depreciation schedule. Pursuant to this schedule, commercial photographs are considered publications and are depreciated at 50%. DOC agrees with the Corrections Complaint Examiner, who noted, "Depreciation is a real factor when dealing with property and insurance companies take a very similar approach in the outside world. In this case, the DOC depreciation schedule was appropriately applied." DOC does not believe that the claimant is entitled to any further compensation for his damages.

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 neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Dennis Gonzalez of Boscobel, Wisconsin claims \$32.16 for property allegedly misplaced by DOC personnel. The claimant, an inmate at the Wisconsin Secure Program Facility, states that DOC personnel took his property and did not inform him of what specific items were being seized, as required by section [DOC 306.15](#) of the Wisconsin Administrative Code. The claimant states that the property was taken when he was placed on restrictions but that it was not returned when the restrictions were lifted.

DOC recommends denial of this claim. DOC records indicate that on May 1, 2002, the claimant received a Conduct Report for disobeying orders and misuse of state and federal property because he covered the camera in his cell with toilet paper. As a result of the Conduct Report, the claimant was placed on restrictions and all personal items that could be used to obstruct the view of his cell (toothpaste, lotion, paper, etc.) were removed from his cell until the restrictions were lifted on May 15, 2002. The claimant filed an Inmate Complaint on May 16th, alleging that some of his property was not returned. The ensuing investigation determined that DOC misplaced a wireless notebook and two legal pads and the claimant was reimbursed \$2.35 for those items. DOC points to the fact that the Institution Complaint Examiner noted that some of the missing items were purchased as far back as March 2001 and that it was highly unlikely that items such as conditioner and lotion were still in the claimant's possession as of May 2002. The claimant's allegations have been investigated by the institution and responded to accordingly through the Inmate Complaint System.

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 neither one for which the

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

9. M.H. Ranch, Inc., of Westfield, Wisconsin claims \$1,636.40 for damages related to the removal of a sign advertising the claimant's business. The claimant states that in June 2000 it contacted Marquette County regarding permission to place a sign off I-39 at the Westfield exit ramp. The claimant states that the county gave them the okay but told them that they also needed to contact DOT because it was unclear who owned the land in question. The claimant states that they spoke with John Zielinski at DOT, who met with the claimant's employee at the site and discussed placement of the sign. The claimant alleges that Mr. Zielinski flagged a specific spot where they could place their sign and that they had the sign installed on that spot. In December 2001, the claimant again contacted Mr. Zielinski to discuss installing an improved, larger sign. The claimant alleges that Mr. Zielinski stated that as long as the new sign was installed in the same spot as the old one and could not be read from the highway, no permit was necessary and there would be no problem. The claimant ordered a new sign. The claimant alleges that the company creating the new sign also contacted DOT and was told that the sign was not a problem as long as it could not be read from the highway. The new sign was installed around May 1, 2002. On May 7, 2002, the claimant received a letter from DOT stating that the sign was on DOT property and needed to be removed within 30 days. The claimant has removed the sign. The claimant states that the new sign cost \$1,561.40 and that they paid \$75.00 to have it removed. The claimant believes that it should not be penalized because it relied on DOT instruction when placing the sign.

DOT recommends denial of this claim. DOT denies the claimant's allegation that Mr. Zielinski gave verbal permission for placement of the sign. Verbal approval for such signs is not allowed pursuant to s. [84.30](#), Stats., and Trans 201, Wis. Adm. Code, which require a permitting process for the placement of signs. DOT states that it is the sign owner's responsibility to determine ownership of the land and then receive permission from the appropriate landowner. Ownership of the land can be determined by obtaining plat maps from the Highway District office. DOT states that when Mr. Zielinski met with the claimant at the site, the claimant did not bring any plat maps, therefore it was not possible to determine ownership of the land in question. DOT also alleges that the claimant indicated at this meeting that they already had permission from a property owner, therefore, Mr. Zielinski assumed that the claimant planned to place the sign on private property. DOT did not become aware that the sign was placed in the DOT right-of-way until the larger sign, which was visible from the highway, was noticed during a routine sign survey. DOT then sent a 30 day notice informing the claimant that the sign was in violation of s. [86.19](#), Stats., as well as Trans 201.07, 201.075 and 233, Wis. Adm. Code, and that the sign needed to be removed or it would be taken down by DOT. DOT states that this notice also indicated that the claimant could solve the problem by applying for an Off Premise Permit and gave instructions for obtaining a permit application. DOT points to the fact that the sign was neither confiscated nor destroyed by DOT; it is in the claimant's possession. DOT has offered suggestions for other ways to legally install the sign at other locations, if the claimant wishes to do so. DOT believes that, since the sign is still usable by the claimant at other locations, the claimant has suffered no actual loss and the claim should therefore be denied.

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 neither one for which the

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

10. Heinn/Trend Corporation of Milwaukee, Wisconsin claims \$23,291.32 for costs related to security guard services provided pursuant to a building lease. The claimant owns a building leased by the state through DOA. (The claimant purchased the building in 1997, however, the lease was entered into in 1992 with the previous owner.) The claimant states that in June 1994, DOA signed a First Lease Amendment to the original Lease and that this Amendment provided for continuation of security guard services under the lease. The claimant states that the Amendment also stated that the Lessor would be reimbursed by the state for security guard costs that exceeded \$20,996.28 per year upon presentation of documents verifying such excess costs. The claimant states that the Amendment contains no language requiring the billing for these excess costs to be submitted within a specific time period. In September 2001 the claimant submitted an invoice to the state for excess security guard costs for 1998–2001. The claimant believes that the non–availability of funds clause in the original Lease does not apply to these costs. The claimant argues that this clause only absolves the state from liability relating to costs associated with future use of the property but that the clause can not be applied to past costs that were incurred while the state actually used and occupied the building. The claimant further points to the fact that DOA did provide reimbursement for the excess costs for 2000 and 2001 and that there is therefore no evidence that the state would have thought the costs for 1998 and 1999 excessive, had they been presented earlier. The claimant requests payment of the excess security costs for 1998 and 1999 in the amount of \$23,291.32. The claimant also requests payment of interest at the statutory rate of 5% from September 2001 through the date of payment.

DOA recommends denial of this claim and does not believe that the claimed costs were presented to the state in a timely manner. DOA does not understand why the claimant delayed for over four years before presenting these costs to the state. DOA believes that this delay and the resulting four–year cumulative billing places an unfair and excessive burden on the state, particularly at a time when the state’s ability to seek supplemental resources is essentially non–existent. DOA points to the fact that its December 22, 1992, letter, which served as a Lease Addendum, clearly stated that the security service could be cancelled or renegotiated by the Lessee. DOA therefore believes that the delayed billing denied the state the right to terminate or renegotiate the services as provided for in the First Lease Amendment. DOA also states that the First Lease Amendment states that the Lessor would be reimbursed if the costs exceeded the stated amount “per year for said guard service” which indicates that the agreement for security services was entered into on an annual basis. DOA believes that it is therefore a logical expectation that notification of the excess costs would be annual as well. Finally, it is DOA’s position that, pursuant to section 15 of the original Lease, the availability of funds for the 1998 and 1999 costs had lapsed by the time the claimant presented its invoice.

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 neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. (*Member Rothschild not participating.*)

The Board concludes:

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

- Edna and Russell Jeske
- Terrance A. Kaucic

- Genevieve G. McBride
- Tara L. Hoekman
- Jeremy S. Daubon
- Dennis Gonzalez (2 claims)
- M.H. Ranch, Inc.
- Heinn/Trend Corporation

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

Megan E. Weinhandl \$70.00 20.285(5)(h), Stats.

Dated at Madison, Wisconsin this 6 day of February 2002.

- Alan Lee, Chair
- Representative of the Attorney General
- John E. Rothschild, Secretary
- Representative of the Secretary of Administration
- Sheryl Albers
- Assembly Finance Committee
- Amanda Schaumburg
- Representative of the Governor

STATE OF WISCONSIN CLAIMS BOARD

The State Claims Board conducted hearings at the Department of Administration Building, St. Croix Room, Madison, Wisconsin, on December 19, 2002, upon the following claim:

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
Frederick Saecker	Innocent Convict	\$25,000.00+ (s. 775.05, Wis. Stats.)

The Board Finds:

The Claims Board referred this claim to a hearing examiner on December 7, 2001. On May 30, 2002, a hearing on the claim was held before Administrative Law Judge Peter C. Anderson of the Division of Hearings and Appeals. Judge Anderson has submitted to the Claims Board a Proposed Decision for the claim as well as a Proposed Decision on the Award of Attorney’s Fees and Costs. After consideration of the information submitted, the Board concludes that the evidence is clear, satisfactory and convincing that the prisoner was innocent of the crime for which he suffered imprisonment. The Board concludes that the attached Proposed Decision should be adopted as the decision of the Claims Board and that Frederick Saecker should be paid the amount of \$25,000.00 pursuant to section 775.05 (4), Wis. Stats. The Board further concludes that the attached Proposed Decision on the Award of Attorney’s Fees and Costs should be adopted as the decision of the Claims Board and that Attorney John D. McKenzie should be paid the amount of \$20,000.00 as permitted under section 775.05 (4), Wis. Stats. Under authority of s. 16.007 (6m), Wis. Stats., the Board concludes that these payments should be made from the Claims Board appropriation s. 20.505 (4)(d), Wis. Stats.

Dated at Madison, Wisconsin this 6 day of January 2003.

- Alan Lee, Chair
- Representative of the Attorney General
- John E. Rothschild, Secretary
- Representative of the Secretary of Administration
- Sheryl Albers
- Assembly Finance Committee
- Amanda Schaumburg
- Representative of the Governor

The following appointments to the Professional Standard Council for Teachers are continued from the 2001 session.

JONES, LAKEIA, of Milwaukee, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2002.

Referred to committee on **Education, Ethics and Elections.**

ALLEN, RAY, of Madison, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2004. Referred to committee on Education, Ethics and Elections.

Referred to committee on **Education, Ethics and Elections.**

CHAMPEAU, RYAN, of Waukesha, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2003.

Referred to committee on **Education, Ethics and Elections.**

COBALLE-VEGA, CARMEN, of Oshkosh, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2005. Referred to committee on Education, Ethics and Elections.

Referred to committee on **Education, Ethics and Elections.**

HERMENING, KEVIN, of Mosinee, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2003.

Referred to committee on **Education, Ethics and Elections.**

LEWNO, PAT, of Racine, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2005. Referred to committee on Education, Ethics and Elections.

Referred to committee on **Education, Ethics and Elections.**

OPELT, DIANE, of Greenwood, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2004.

Referred to committee on **Education, Ethics and Elections.**

SMITH-GROSS, MURIEL, of Milwaukee, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2003. Referred to committee on Education, Ethics and Elections.

Referred to committee on **Education, Ethics and Elections.**

XIONG, KOU Y., of Menomonie, as a member of the Professional Standards Council for Teachers, to serve for the term ending July 1, 2004.

Referred to committee on **Education, Ethics and Elections.**

ADVICE AND CONSENT OF THE SENATE

State of Wisconsin
Office of the Governor

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint BRIDGE, BURNIE, of Madison, as

a Public Service Commissioner, to serve for the interim term ending March 1, 2003, and for the full term ending March 1, 2009.

Sincerely,
JIM DOYLE
Governor

Read and referred to committee on **Energy and Utilities.**
State of Wisconsin
Office of the Governor

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint GASSMAN, ROBERTA, of Madison, as Secretary of the Department of Workforce Development, to serve for the term ending at the pleasure of the Governor.

Sincerely,
JIM DOYLE
Governor

Read and referred to committee on **Economic Development, Job Creation and Housing.**
State of Wisconsin
Office of the Governor

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint FRANK, MATTHEW, of Middleton, as Secretary of the Department of Corrections, to serve for the term ending at the pleasure of the Governor.

Sincerely,
JIM DOYLE
Governor

Read and referred to committee on **Judiciary, Corrections and Privacy.**

State of Wisconsin
Office of the Governor

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint MORGAN, MICHAEL, of Milwaukee, as Secretary of the Department of Revenue, to serve for the term ending at the pleasure of the Governor.

Sincerely,
JIM DOYLE
Governor

Read and referred to committee on **Homeland Security, Veterans and Military Affairs and Government Reform.**

State of Wisconsin
Office of the Governor

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint SHIBILSKI, KEVIN, of Stevens Point, as Secretary of the Department of Tourism, to serve for the term ending at the pleasure of the Governor.

Sincerely,
JIM DOYLE
Governor

Read and referred to committee on **Higher Education and Tourism.**

**State of Wisconsin
Office of the Governor**

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint TIMBERLAKE, KAREN, of Madison, as Secretary of the Department of Employment Relations, to serve for the term ending at the pleasure of the Governor.

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Labor, Small Business Development and Consumer Affairs.**

**State of Wisconsin
Office of the Governor**

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint NILSESTUEN, ROD, of DeForest, as Secretary of the Department of Agriculture, Trade and Consumer Protection, to serve for the term ending at the pleasure of the Governor.

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Agriculture, Financial Institutions and Insurance.**

**State of Wisconsin
Office of the Governor**

January 10, 2003

The Honorable, The Senate:

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

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Environment and Natural Resources.**

**State of Wisconsin
Office of the Governor**

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint BUSALACCHI, FRANK, of Brookfield, as Secretary of the Department of Transportation, to serve for the term ending at the pleasure of the Governor.

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Transportation and Information Infrastructure.**

**State of Wisconsin
Office of the Governor**

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint NETTLES, CORY, of Whitefish Bay, as Secretary of the Department of Commerce, to serve for the term ending at the pleasure of the Governor.

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Economic Development, Job Creation and Housing.**

**State of Wisconsin
Office of the Governor**

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint MAROTTA, MARC, of Mequon, as Secretary of the Department of Administration, to serve for the term ending at the pleasure of the Governor.

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Homeland Security, Veterans and Military Affairs and Government Reform.**

**State of Wisconsin
Office of the Governor**

January 10, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint NELSON, HELENE, of Madison, as Secretary of the Department of Health and Family Services, to serve for the term ending at the pleasure of the Governor.

Sincerely,

JIM DOYLE
Governor

Read and referred to committee on **Health, Children, Families, Aging and Long Term Care.**

The following appointments are continued from the 2001 session.

ADAMSKI, PAUL C., of Stevens Point, as a member of the Savings Bank Review Board, to serve for the term ending May 1, 2005.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

ALBERT, PHILIP E., of Madison, as Secretary of the Department of Commerce, to serve for the term ending at the pleasure of the Governor.

Referred to committee on **Economic Development, Job Creation and Housing.**

BAHR, JUNE A., of Fond du Lac, as a member of the Board of Nursing, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

BALISTRERI, LYLE A., of Wauwatosa, as a member of the Prison Industries Board, to serve for the term ending May 1, 2004.

Referred to committee on **Judiciary, Corrections and Privacy.**

BARRETTE, DR. BRUCE J., of Peshtigo, as a member of the Dentistry Examining Board, to serve for the term ending July 1, 2005.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

BAZZELL, DARRELL, of McFarland, as Secretary of the Department of Natural Resources, to serve for the term ending at the pleasure of the Governor.

Referred to committee on **Environment and Natural Resources.**

BENNETT, BRUCE M., of Madison, as a member of the Barbering and Cosmetology Examining Board, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

BRAS, ARMANDO A., of Richfield, as a member of the Educational Communications Board, to serve for the term ending May 1, 2005.

Referred to committee on **Higher Education and Tourism.**

CARLSEN, TOM, of Madison, as Secretary of the Department of Transportation, to serve for the term ending at the pleasure of the Governor.

Referred to committee on **Transportation and Information Infrastructure.**

CARROLL, DAVID T., of Schofield, as a member of the Dentistry Examining Board, to serve for the term ending December 31, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

CHRISTMAN, DR. BLANE, of Ladysmith, as a member of the Rural Health Development Council, to serve for the term ending July 1, 2007.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

CLARKE, JAY N., of Ripon, as a member of the Auctioneer Board, to serve for the term ending May 1, 2006.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

CONWAY, DR. STEVEN R., of Athens, as a member of the Chiropractic Examining Board, to serve for the interim term ending July 1, 2005.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

CROUSE, DR. BYRON J., of Fitchburg, as a member of the Rural Health Development Council, to serve for the interim term ending July 1, 2002, and for the full term ending July 1, 2007.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

DAVIS, DON H., JR., of Whitefish Bay, as a member of the Medical College of Wisconsin Board of Trustees, to serve for the term ending May 1, 2007.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

DELAP, RUSSELL D., of Brookfield, as a member of the Athletic Trainers Affiliated Credentialing Board, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

DONOHUE, STEPHEN V., of De Pere, as a member of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists, to serve for the term ending July 1, 2006.

Referred to committee on **Environment and Natural Resources.**

DREVES, NANETTE KOSYDAR, of La Crosse, as a member of the Dentistry Examining Board, to serve for the term ending December 31, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

DUBE, PHYLLIS J., of Madison, as Secretary of the Department of Health and Family Services, to serve for the term ending at the pleasure of the Governor.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

DYSLAND, REBECCA J., of Milwaukee, as a member of the Real Estate Board, to serve for the term ending July 1, 2005.

Referred to committee on **Economic Development, Job Creation and Housing.**

EVANS, DR. THOMAS J., of Madison, as a member of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists, to serve for the term ending July 1, 2006.

Referred to committee on **Environment and Natural Resources.**

FARRAR, DR. LYNDA, of Oregon, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006.

Referred to committee on **Economic Development, Job Creation and Housing.**

FIEDLER, SHARON R., of Neenah, as a member of the Real Estate Appraisers Board, to serve for the term ending July 1, 2006.

Referred to committee on **Economic Development, Job Creation and Housing.**

FRANGER, DR. ALFRED L., of Brookfield, as a member of the Medical Examining Board, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

FRANKLIN, LAMARR J., of Glendale, as a member of the Real Estate Appraisers Board, to serve for the term ending May 1, 2005.

Referred to committee on **Economic Development, Job Creation and Housing.**

GREER, YVONNE D., of Milwaukee, as a member of the Dietitians Affiliated Credentialing Board, to serve for the interim term ending July 1, 2002, and for the full term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

GUMTOW, JON H., of Random Lake, as a member of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists, to serve for the term ending July 1, 2006.

Referred to committee on **Environment and Natural Resources.**

HAMMES, JON D., of Mequon, as a member of the Medical College of Wisconsin Board of Trustees, to serve for the term ending May 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

HARVEY, STEVEN A., of Brookfield, as a member of the Hearing and Speech Examining Board, to serve for the term ending July 1, 2005.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

HEILIGER, DONALD L., of Stoughton, as a member of the Board of Veterans Affairs, to serve for the term ending May 1, 2005.

Referred to committee on **Homeland Security, Veterans and Military Affairs and Government Reform.**

HELM, ARLYN J., of Springbrook, as a member of the Waste Facility Siting Board, to serve for the interim term ending May 1, 2004.

Referred to committee on **Environment and Natural Resources.**

HOEKSEMA, TIMOTHY E., of Chenequa, as a member of the Medical College of Wisconsin Board of Trustees, to serve for the term ending May 1, 2007.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

HOLMES, ROBERT W., of Tomah, as a member of the Savings Bank Review Board, to serve for the term ending May 1, 2005.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

HUGHES, MACK E., of Milwaukee, as a member of the Board of Veterans Affairs, to serve for the term ending May 1, 2007.

Referred to committee on **Homeland Security, Veterans and Military Affairs and Government Reform.**

JOHNSON, DR. JAMES R., of Waukesha, as a member of the Veterinary Examining Board, to serve for the term ending July 1, 2005.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

JOHNSRUD, JACQUELINE A., of Eastman, as a member of the Board of Nursing, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

JUNGERS, ROMAN M., of Waupaca, as a member of the Accounting Examining Board, to serve for the term ending July 1, 2005.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

KALISHEK, KAREN A., of Shawano, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2005.

Referred to committee on **Economic Development, Job Creation and Housing.**

KIEL, DOUGLAS G., of Wauwatosa, as a member of the Bradley Center Sports and Entertainment Corporation, to serve for the term ending July 1, 2006.

Referred to committee on **Economic Development, Job Creation and Housing.**

KOLLMANSBERGER, RICHARD A., of Oconomowoc, as a member of the Real Estate Board, to serve for the term ending July 1, 2006.

Referred to committee on **Economic Development, Job Creation and Housing.**

KOWBEL, MARK P., of Racine, as a member of the Real Estate Appraisers Board, to serve for the interim term ending May 1, 2004.

Referred to committee on **Economic Development, Job Creation and Housing.**

KREUNEN, RODNEY W., of Madison, as Commissioner of Railroads, to serve for the term ending March 1, 2005.

Referred to committee on **Transportation and Information Infrastructure.**

KUNDERT, JOHN F. "JACK", of Monroe, as Secretary of the Department of Financial Institutions, to serve for the term ending at the pleasure of the Governor.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

LEE, SHOUA, of La Crosse, as a member of the Board on Aging and Long-Term Care, to serve for the interim term ending May 1, 2005.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

LOMBARD, DENNIS L., of Manitowoc, as a member of the Credit Union Review Board, to serve for the term ending May 1, 2006.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

MAHR, DR. LARRY D., of Oregon, as a member of the Veterinary Examining Board, to serve for the term ending July 1, 2006.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

MCCALLUM, LAURIE R., of Madison, as a member of the Labor and Industry Review Commission, to serve for the term ending March 1, 2005.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

MCGREGOR, ELAINE H., of Waukesha, as a member of the Veterinary Examining Board, to serve for the term ending July 1, 2004.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

MIOTA, DR. DANIEL J., of Wauwatosa, as a member of the Medical Examining Board, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

MORELLO, BRIAN L., of Whitefish Bay, as a member of the Historic Sites Foundation "a.k.a. Circus World Museum Foundation, Inc.", to serve for the term ending at the pleasure of the Governor.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

MOUW, EDWARD W., of Rhinelander, as a member of the Wisconsin Housing and Economic Development Authority, to serve for the term ending January 1, 2004.

Referred to committee on **Economic Development, Job Creation and Housing.**

NELSON, ELWYN (JACK), of Oshkosh, as a member of the Fox River Navigational System Authority, to serve for the term ending July 1, 2004.

Referred to committee on **Environment and Natural Resources.**

OHBERG, MICHAEL J., of Waukesha, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2005.

Referred to committee on **Economic Development, Job Creation and Housing.**

ONSAGER, CATHERINE, of West Salem, as a member of the Kickapoo Reserve Management Board, to serve for the term ending May 1, 2004.

Referred to committee on **Environment and Natural Resources.**

PACZKOWSKI, DALE R., of Fond du Lac, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the interim term ending July 1, 2005.

Referred to committee on **Economic Development, Job Creation and Housing.**

PAYNE, ULICE, 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, 2008.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

PAYNE, ULICE, of Greenfield, as a member of the Bradley Center Sports and Entertainment Corporation, to serve for the term ending July 1, 2009.

Referred to committee on **Economic Development, Job Creation and Housing.**

POPE, CAROL VOLLMER, of Brookfield, as a member of the Prison Industries Board, to serve for the term ending May 1, 2004.

Referred to committee on **Judiciary, Corrections and Privacy.**

RECORE, JANET K., of Wautoma, as a member of the Rural Health Development Council, to serve for the term ending July 1, 2007.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

RUSCH, JAMES E., of New Richmond, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006.

Referred to committee on **Economic Development, Job Creation and Housing.**

SOBCZAK, NANCY L., of Racine, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006.

Referred to committee on **Economic Development, Job Creation and Housing.**

SOEHNER, MICHAEL R., of Stoughton, as Administrator of the Division of Merit Recruitment and Selection, to serve for the interim term ending March 26, 2004.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

SVETLY, K. DENISE, of Reedsburg, as a member of the Barbering and Cosmetology Examining Board, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

SYBELDON, JOHN M., of Wausau, as a member of the Athletic Trainers Affiliated Credentialing Board, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

THEODORE, ANTHONY J., of Madison, as a member of the Personnel Commission, to serve for the term ending March 1, 2006.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

THOMPSON, KELLI, of Whitefish Bay, as a member of the Personnel Commission, to serve for the interim term ending March 1, 2004.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

TIMMERMAN, DOUGLAS J., of Madison, as a member of the Savings Bank Review Board, to serve for the term ending May 1, 2005.

Referred to committee on **Agriculture, Financial Institutions and Insurance.**

TOLLAKSEN, MARGARET F., of West Allis, as a member of the Board on Aging and Long-Term Care, to serve for the term ending May 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

VAN BOGAERT, CYNTHIA A., of Brooklyn, as a member of the Employee Trust Fund Board, to serve for the term ending May 1, 2005.

Referred to committee on **Labor, Small Business Development and Consumer Affairs.**

VAN DE HEY, RON, of Kaukauna, as a member of the Fox River Navigational System Authority, to serve for the term ending July 1, 2004.

Referred to committee on **Environment and Natural Resources.**

VUE, MAI ZONG, of Madison, as a member of the Council on Domestic Abuse, to serve for the term ending July 1, 2004.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

WATTS, MARIA E., of Waukesha, as a member of the Real Estate Board, to serve for the term ending July 1, 2005.

Referred to committee on **Economic Development, Job Creation and Housing.**

WEBER, DR. JAMES W., of Rice Lake, as a member of the Chiropractic Examining Board, to serve for the term ending July 1, 2005.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

WEDDLE, MCARTHUR, of Milwaukee, as a member of the Psychology Examining Board, to serve for the term ending July 1, 2006.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

WENDT, KENNETH C., of Sturgeon Bay, as a member of the Board of Veterans Affairs, to serve for the term ending May 1, 2007.

Referred to committee on **Homeland Security, Veterans and Military Affairs and Government Reform.**

WENDT, DR. ROBERT, of Marshall, as a member of the Examining Board of Professional Geologists, Hydrologists and Soil Scientists, to serve for the interim term ending July 1, 2004.

Referred to committee on **Environment and Natural Resources.**

WHITTOW, GEORGE W., of Waupaca, as a member of the Bradley Center Sports and Entertainment Corporation, to serve for the term ending July 1, 2006.

Referred to committee on **Economic Development, Job Creation and Housing.**

WILLIS, BILLY R., of Green Bay, as a member of the Fox River Navigational System Authority, to serve for the term ending July 1, 2005.

Referred to committee on **Environment and Natural Resources.**

ZORE, EDWARD, of River Hills, as a member of the Board of Trustees of the Medical College of Wisconsin, Inc., to serve for the term ending May 1, 2008.

Referred to committee on **Health, Children, Families, Aging and Long Term Care.**

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

State of Wisconsin
Revisor of Statutes Bureau

January 7, 2003
To the Honorable, the Senate:

The following rules have been published:

Clearinghouse Rules	Effective Date(s)
01-047	January 1, 2003
01-124	January 1, 2003
01-125	January 1, 2003
02-024	January 1, 2003
02-026	January 1, 2003
02-027	January 1, 2003
02-032	January 1, 2003
02-045	January 1, 2003
02-051	January 1, 2003
02-052	January 1, 2003
02-075	January 1, 2003
02-081	January 1, 2003
02-090	January 1, 2003

02-102
02-110

January 1, 2003
January 1, 2003

Sincerely,
GARY L. POULSON
Deputy Revisor

Senate Clearinghouse Rule 01-077

Relating to municipal regulation of utility rights-of-way.

Submitted by Public Service Commission.

Report received from Agency, January 7, 2003.

Referred to committee on **Energy and Utilities**, January 10, 2003.

Senate Clearinghouse Rule 02-002

Relating to the Wisconsin uniform plumbing code, fees, amusement rides and design and construction of public swimming pools.

Submitted by Department of Commerce.

Report received from Agency, January 6, 2003.

Referred to committee on **Economic Development, Job Creation and Housing**, January 10, 2003.

Senate Clearinghouse Rule 02-054

Relating to animal diseases, animal imports and livestock markets.

Submitted by Department of Agriculture, Trade and Consumer Protection.

Report received from Agency, January 6, 2003.

Referred to committee on **Agriculture, Financial Institutions and Insurance**, January 10, 2003.

Senate Clearinghouse Rule 02-072

Relating to electrical construction

Submitted by Department of Commerce.

Report received from Agency, January 6, 2003.

Referred to committee on **Economic Development, Job Creation and Housing**, January 10, 2003.

Senate Clearinghouse Rule 02-077

Relating to the uniform dwelling code.

Submitted by Department of Commerce.

Report received from Agency, January 6, 2003.

Referred to committee on **Economic Development, Job Creation and Housing**, January 10, 2003.

Senate Clearinghouse Rule 02-078

Relating to farm-raised deer and chronic wasting disease.

Submitted by Department of Agriculture, Trade and Consumer Protection.

Report received from Agency, January 8, 2003.

Referred to committee on **Agriculture, Financial Institutions and Insurance**, January 10, 2003.

Senate Clearinghouse Rule 02-112

Relating to the custody and control of sexually violent persons placed at facilities under s. 980.065, Stats.

Submitted by Department of Health and Family Services.

Report received from Agency, January 6, 2003.

Referred to committee on **Health, Children, Families, Aging and Long Term Care**, January 10, 2003.

Senate Clearinghouse Rule 02–116

Relating to the agriculture development zone program.

Submitted by Department of Commerce.

Report received from Agency, January 6, 2003.

Referred to committee on **Agriculture, Financial Institutions and Insurance**, January 10, 2003.

Senate Clearinghouse Rule 02–117

Relating to a birth defect prevention and surveillance system.

Submitted by Department of Health and Family Services.

Report received from Agency, January 6, 2003.

Referred to committee on **Health, Children, Families, Aging and Long Term Care**, January 10, 2003.

Senate Clearinghouse Rule 02–118

Relating to Medicare Supplement insurance policies.

Submitted by Office of Commissioner of Insurance.

Report received from Agency, January 6, 2003.

Referred to committee on **Health, Children, Families, Aging and Long Term Care**, January 10, 2003.

Senate Clearinghouse Rule 02–126

Relating to participation in the variable division of the trust fund.

Submitted by Department of Employee Trust Funds.

Report received from Agency, January 8, 2003.

Referred to committee on **Labor, Small Business Development and Consumer Affairs**, January 10, 2003.

Senate Clearinghouse Rule 02–130

Relating to establishing interest rates and the maximum loan amount under the personal loan program.

Submitted by Department of Veterans Affairs.

Report received from Agency, January 6, 2003.

Referred to committee on **Homeland Security, Veterans and Military Affairs and Government Reform**, January 10, 2003.

Senate Clearinghouse Rule 02–131

Relating to customer identifying information.

Submitted by Department of Transportation.

Report received from Agency, January 7, 2003.

Referred to committee on **Transportation and Information Infrastructure**, January 10, 2003.

Senate Clearinghouse Rule 02–136

Relating to screening of newborns' blood for congenital and metabolic disorders.

Submitted by Department of Health and Family Services.

Report received from Agency, January 6, 2003.

Referred to committee on **Health, Children, Families, Aging and Long Term Care**, January 10, 2003.

Senate Clearinghouse Rule 02–142

Relating to fishing for walleye and sauger in Escanaba Lake, Vilas County. [Covered in Report on [Clearinghouse Rule 02–014](#).]

Submitted by Department of Natural Resources.

Report received from Agency, January 6, 2003.

Referred to committee on **Environment and Natural Resources**, January 10, 2003.

The following rules are continued from the 2001 session.

Senate Clearinghouse Rule 00–155

Relating to the telecommunications utilities price regulation productivity factor.

Submitted by Public Service Commission.

Referred to committee on **Energy and Utilities**, January 10, 2003.

Senate Clearinghouse Rule 01–104

Relating to the control of underground injection wells.

Submitted by Department of Natural Resources.

Referred to committee on **Environment and Natural Resources**, January 10, 2003.

Senate Clearinghouse Rule 02–104

Relating to the administration of child care funds.

Submitted by Department of Workforce Development .

Referred to committee on **Health, Children, Families, Aging and Long Term Care**, January 10, 2003.

MESSAGES FROM THE ASSEMBLY

By Patrick E. Fuller, chief clerk.

Mr. President:

I am directed to inform you that the Assembly has concurred in:

Senate Joint Resolution 1

Senate Joint Resolution 2

Senate Joint Resolution 3

I am directed to inform you that the Assembly is organized and ready to proceed to the business of the 2003-2004 session.