

STATE OF WISCONSIN
Senate Journal
Ninety–Sixth Regular Session

WEDNESDAY, November 26, 2003

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

INTRODUCTION, FIRST READING AND REFERENCE OF PROPOSALS

Read and referred:

Senate Resolution 23

Relating to: memorializing Congress to pass H.R. 476, which states that the service of the members of the organization known as the United States Cadet Nurse Corps during World War II constituted active military service for purposes of laws administered by the Secretary of Veterans Affairs.

By Senators Darling, Schultz, Wirch, Roessler, Kedzie and Lassa.

To committee on **Senate Organization**.

Senate Bill 326

Relating to: the deceptive or misleading use of the name of a state-chartered bank, savings bank, savings and loan association, or credit union, the deceptive or misleading use of a name that is deceptively similar to the name of a state-chartered bank, savings bank, savings and loan association, or credit union, and providing a penalty.

By Senators Schultz, M. Meyer, Carpenter, Reynolds, S. Fitzgerald, Lazich, Leibham, Hansen, Erpenbach, Breske, Kedzie and Cowles; cosponsored by Representatives Montgomery, Van Roy, Richards, Johnsrud, Shilling, Huebsch, Molepske, Kreibich, Krawczyk, Hundertmark, Townsend, Hines, Cullen, Hahn, Suder, Freese, Ott, Weber, Olsen, Jeskewitz, J. Lehman, Towns and Seratti.

To committee on **Agriculture, Financial Institutions and Insurance**.

Senate Bill 327

Relating to: expenditure of \$12,600 from the general fund in payment of a claim against the state made by Alan and Marlene Sieker.

By Senators Welch, Schultz and A. Lasee; cosponsored by Representatives D. Meyer, Hahn, Albers, Bies, Stone, Ziegelbauer, Ott, Hines and Jeskewitz, by request of State of Wisconsin Claims Board.

To joint committee on **Finance**.

Senate Bill 328

Relating to: expenditure of \$23,053.80 from the general fund in payment of a claim against the state made by Jerome and Theresa Wagner.

By Senators Welch, Schultz and A. Lasee; cosponsored by Representatives D. Meyer, Hahn, Travis, Stone, Jeskewitz,

Albers, Bies, Ott and Hines, by request of State of Wisconsin Claims Board.

To joint committee on **Finance**.

Senate Bill 329

Relating to: expenditure of \$56,300 from moneys appropriated to the Department of Transportation in payment of a claim against the state made by the city of West Allis.

By Senators Welch, Reynolds and Schultz; cosponsored by Representatives D. Meyer, Hahn, Albers, Hines, Jeskewitz, Staskunas and Bies, by request of State of Wisconsin Claims Board.

To joint committee on **Finance**.

Senate Bill 330

Relating to: expenditure of \$13,785.25 from moneys appropriated to the Department of Transportation in payment of a claim against the state made by the city of West Allis.

By Senators Welch, Reynolds and Schultz; cosponsored by Representatives D. Meyer, Hahn, Albers, Hines, Jeskewitz, Staskunas and Bies, by request of State of Wisconsin Claims Board.

To joint committee on **Finance**.

Senate Bill 331

Relating to: expenditure of \$76,150 from moneys appropriated to the Department of Transportation in payment of a claim against the state made by Walworth County.

By Senators Welch, Kedzie, Schultz and A. Lasee; cosponsored by Representatives D. Meyer, Stone, Bies, Gunderson, Hahn, Albers, Nass, Hines, Jeskewitz and Lothian, by request of State of Wisconsin Claims Board.

To joint committee on **Finance**.

Senate Bill 332

Relating to: prohibiting an insurer from canceling or refusing to issue or renew an insurance policy on the basis that the applicant or insured is not insured under another policy issued by the insurer.

By Senators Chvala, Risser, Carpenter and Breske; cosponsored by Representatives J. Lehman, Musser, Taylor, Ziegelbauer, Ainsworth and Gronemus.

To committee on **Agriculture, Financial Institutions and Insurance**.

REPORT OF COMMITTEES

The committee on **Health, Children, Families, Aging and Long Term Care** reports and recommends:

Assembly Bill 279

Relating to: creating a rebuttable presumption against awarding a parent joint or sole legal custody if the court finds that the parent has engaged in a pattern or serious incident of

abuse, requiring a guardian ad litem and a mediator to have training related to domestic violence, and requiring a guardian ad litem to investigate and a mediator to inquire whether a party in an action affecting the family engaged in domestic violence.

Concurrence.

Ayes, 8 – Senators Roessler, Kanavas, Brown, Schultz, Robson, Chvala, Jauch and Carpenter.

Noes, 1 – Senator Welch.

Assembly Bill 477

Relating to: creating an individual income tax subtract modification for certain individuals who donate a human organ.

Concurrence.

Ayes, 9 – Senators Roessler, Kanavas, Brown, Welch, Schultz, Robson, Chvala, Jauch and Carpenter.

Noes, 0 – None.

Senate Bill 287

Relating to: multiple municipal local health departments in Milwaukee County.

Passage.

Ayes, 7 – Senators Roessler, Kanavas, Brown, Welch, Schultz, Robson and Jauch.

Noes, 2 – Senators Chvala and Carpenter.

Carol Roessler
Chairperson

PETITIONS AND COMMUNICATIONS

**Statement of Canvass
for
State Senator**

RECALL ELECTION, November 18, 2003

I, Shane Falk, Chairperson of the State Elections Board, certify that the attached tabular statement, as compiled from the certified returns made to the State Elections Board by the Milwaukee County Board of Election Commissioners, contains a correct abstract of the total number of votes given for the election of a candidate for State Senator at a Recall Election held in the several election districts in said county on the Eighteenth day of November, 2003.

I DO, THEREFORE, DETERMINE AND CERTIFY that the following candidate, having received the greatest number of votes, is duly elected State Senator:

<u>District</u>	<u>Elected</u>
6th District	G. Spencer Coggs

Done in the City of Madison, this 24th day of November, 2003.

SHANE FALK
Chairperson, State Elections Board
Senator Coggs was given the oath of office November 25, 2003.

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

EXECUTIVE ORDER #33

Relating to a Special Election for the Seventeenth Assembly District

WHEREAS, the Honorable G. Spencer Coggs, submitted his resignation as a State Representative for the Seventeenth Assembly District, effective November 25, 2003;

NOW, THEREFORE, I Jim Doyle, Governor of the State of Wisconsin, pursuant to section 8.50(4) of the Wisconsin

Statutes, order that a special election be held on Tuesday, January 27, 2004 to fill the vacancy in the Seventeenth Assembly District. A description of the boundaries of the Seventeenth Assembly District as created in the combined cases of *Baumgart et al. v. Wendelberger*, Case No. 01-C-0121 (E.D. Wis. 2002) and *Jensen et al. v. Wendelberger*, Case No. 02-C-0366 (E.D. Wis. 2002) are set out in the 2001-02 Wisconsin Statutes following section 4.005. The term for the Seventeenth Assembly District will expire on the first Monday in January, 2005. If a primary is necessary, it shall be held on Tuesday, December 30, 2003. Circulation of nomination papers for candidates may begin on Tuesday, November 25, 2003 and nomination papers may be filed no later than 5:00 P.M., December 2, 2003 in the office of the State Elections Board. This election shall be held, conducted, canvassed and returned in accordance with law.

IN TESTIMONY WHERE OF, 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 twenty-fifth day of November in the year two thousand and three.

JIM DOYLE
Governor

BY THE GOVERNOR:

DOUGLAS LA FOLLETTE
Secretary of State

**State of Wisconsin
Office of the Governor**

November 21, 2003

To the Honorable, the Senate:

The following bill(s), originating in the Senate, have been approved, signed and deposited in the office of the Secretary of State:

<u>Bill Number</u>	<u>Act Number</u>	<u>Date Approved</u>
Senate Bill 176	Wisconsin Act 78	November 20, 2003
Senate Bill 170	Wisconsin Act 83	November 21, 2003

Sincerely,
JIM DOYLE
Governor

**State of Wisconsin
Office of the Governor**

November 25, 2003

To the Honorable, the Senate:

The following bill(s), originating in the Senate, have been approved, signed and deposited in the office of the Secretary of State:

<u>Bill Number</u>	<u>Act Number</u>	<u>Date Approved</u>
Senate Bill 53	Wisconsin Act 86	November 25, 2003
Senate Bill 38	Wisconsin Act 87	November 25, 2003
Senate Bill 29	Wisconsin Act 88	November 25, 2003

Sincerely,
JIM DOYLE
Governor

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

To the Honorable, the Senate:

<u>Bill, Joint Reso- lution or Resolu- tion Number</u>	<u>Act Number or Enrolled Number</u>	<u>Publication Date</u>
Senate Bill 176	Wisconsin Act 78	December 5, 2003
Senate Bill 170	Wisconsin Act 83	December 8, 2003

Sincerely,
DOUGLAS LA FOLLETTE
Secretary of State

State of Wisconsin

November 19, 2003

The Honorable, The Senate:

As the chairperson of the Senate Committee on Finance, I respectfully request the removal of Senator Welch from the Claim's Board. I am appointing Senator Fitzgerald to this position.

If you have any questions, please feel free to contact me.

Sincerely,
ALBERTA DARLING
State Senator

State of Wisconsin

November 20, 2003

The Honorable, The Senate:

I respectfully request that my name be added as a cosponsor of **Senate Bill 304**.

Thank you very much. If you have any questions or need further clarification, please do not hesitate to contact my office.

Sincerely,
GLENN GROTHMAN
State Representative

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

November 20, 2003

The Honorable, The Legislature:

Enclosed is the 2003 annual report of the Wisconsin Council on Physical Disabilities. Preparation and distribution of the report is required by section 46.29(1)(f) of the state statutes.

If you have questions about the report, please contact Dan Johnson at 608/267-9582. Mr. Johnson is Director of the state Office for Persons with Physical Disabilities, the unit to which the Council is administratively attached.

Sincerely,
HELENE NELSON
Secretary

**State of Wisconsin
Office of State Employment Relations**

November 2003

The Honorable, The Senate:

I am pleased to submit the Veterans Employment Report for July 1, 2002, to June 30, 2003. The report, pursuant to s. [230.04\(9\)\(em\)](#), Wis. Stats., summarizes veteran new hires and employee statistics for state agencies and units of the university of Wisconsin System.

Please contact Demetri Fisher, Administrator of the Division of Affirmative Action, at 266-3017 or email:

Demetri.fisher@oser.state.wi.us if you have any questions or need additional information regarding the report.

Sincerely,
DEMETRI FISHER
Administrator

**State of Wisconsin
Legislative Audit Bureau**

November 19, 2003

The Honorable, The Legislature:

At the request of the Department of Health and Family Services (DHFS), we have completed a financial audit of the Health Insurance Risk-Sharing Plan (HIRSP) for fiscal year (FY) 2001-02. HIRSP provides medical and prescription drug insurance for approximately 17,000 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 HIRSP's financial stability. Actions taken to implement an accrual-based funding approach in response to prior audit recommendations have helped to reduce the accounting deficit from \$8.2 million as of June 30, 2001, to \$5.5 million as of June 30, 2002. Further, based on preliminary unaudited financial statements, the deficit was less than \$1.0 million as of June 30, 2003. However, the elimination of general-purpose revenue (GPR) support beginning in FY 2003-04, together with increasing enrollment and claims costs, presents continuing challenges to the management and funding of HIRSP. Enrollment increased 16.9 percent, and claims costs increased 27.8 percent, during FY 2002-03. The loss of GPR, which totaled \$10.2 million in FY 2002-03, is now covered by policyholders, insurers, and health care providers.

DHFS has taken steps to address prior concerns with its loss estimates and administrative billings. Current procedures call for increased review of actuarial loss estimates. DHFS also has streamlined its fee structure for the services of the HIRSP administrator, which had simplified billing and monitoring of administrative invoices.

Finally, DHFS has improved the system for pharmacy claims by using a pharmacy benefit management company beginning in FY 2001-02. However, oversight of pharmacy claims, which totaled \$23.1 million in FY 2001-02 and \$32.4 million in FY 2002-03, could be further improved through independent reviews of the company's controls.

We appreciate the courtesy and cooperation extended to us by DHFS and the plan administrator for HIRSP. A response from DHFS follows the appendix.

Sincerely,
JANICE MUELLER
State Auditor

**State of Wisconsin
Legislative Audit Bureau**

November 25, 2003

The Honorable, The Legislature:

We have completed an evaluation of the Department of Transportation's (DOT's) major highway program, as requested by the Joint Legislative Audit Committee. In fiscal year (FY) 2002-03, DOT's total budget was \$2.4 billion; the major highway program's portion of the budget was \$241.6 million. In September 2003, 32 major highway projects were being planned or were under construction.

Major highway program funds can be used only for new construction projects that are specifically enumerated in statutes. To help determine the reasons for cost increases that occur between enumeration and completion, we reviewed seven current projects. We found that the estimated cost for

each had increased by at least \$20.0 million since enumeration. The discretion DOT currently exercises in project selection, location, and design greatly affected these projects' costs.

We attempted to track the cost of complying with state and federal environmental laws, but the information DOT maintains on these expenditures is incomplete. DOT estimates that in FY 2001-02—the latest year for which data are available—these costs totaled \$29.1 million; however, contractors provided us with other examples of costs not included in DOT's estimates. We include a recommendation for improving DOT's monitoring of environmental expenditures.

We compared Wisconsin's transportation funding sources, spending, and highway conditions with other midwestern states'. Wisconsin is in the middle in state highway spending and conditions, but it relies on a narrower funding base and is increasingly using bonding for the highway program. As debt service increases, the amount of funds available to support future projects decreases. We list a number of challenges DOT and the Legislature will face as they seek to maintain the existing highways or expand the system to meet safety, economic development, and other needs. We also include a number of recommendations for improving DOT's estimating and cost-reporting processes.

We appreciate the courtesy and cooperation extended to us by DOT staff. The agency's response follows the appendices.

Sincerely,

JANICE MUELLER
State Auditor

ADVICE AND CONSENT OF THE SENATE

**State of Wisconsin
Office of the Governor**

November 21, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint FARMER, DOUGLAS L., of La Crosse, as a member of the Banking Review Board, to serve for the term ending May 1, 2007.

Sincerely,

JIM DOYLE
Governor

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

**State of Wisconsin
Office of the Governor**

November 17, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint LANDES, SAMUEL J., of Dane, as a member of the Snowmobile Recreational Council, to serve for the term ending July 1, 2005.

Sincerely,

JIM DOYLE
Governor

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

**State of Wisconsin
Office of the Governor**

November 21, 2003

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint PARR, ADA WILLIAMS, of Brown Deer, as a member of the Marriage and Family Therapy Professional Counseling and Social Work Examining Board, to serve for the term ending July 1, 2006.

Sincerely,

JIM DOYLE
Governor

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

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

Senate Clearinghouse Rule 02-103

Relating to extension of disciplinary action time limits.
Submitted by Department of Regulation and Licensing.
Report received from Agency, November 24, 2003.

Referred to committee on **Health, Children, Families, Aging and Long Term Care**, November 26, 2003.

Senate Clearinghouse Rule 03-099

Relating to pipeline safety regulations.
Submitted by Public Service Commission.
Report received from Agency, November 25, 2003.

Referred to committee on **Energy and Utilities**, November 26, 2003.

CHIEF CLERK'S REPORT

The Chief Clerk records:

Senate Bill 170

Presented to the Governor on November 20, 2003.

CHIEF CLERK'S REPORT

The Chief Clerk records:

Senate Bill 29

Senate Bill 38

Senate Bill 53

Presented to the Governor on November 24, 2003.

**LEGISLATIVE REFERENCE BUREAU
CORRECTIONS**

CORRECTIONS IN:

2003 SENATE JOINT RESOLUTION 47

Prepared by the Legislative Reference Bureau
(November 24, 2003)

In engrossing, the following correction was made:

1. Page 2, line 7: delete "2nd" and substitute "3rd".

CORRECTIONS IN:

2003 SENATE BILL 313

Prepared by the Legislative Reference Bureau
(November 20, 2003)

2. Page 37, line 23: before "individual" insert "an".