



2003 SENATE BILL 328

November 26, 2003 - Introduced 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. Referred to Joint Committee on Finance.

- 1 **AN ACT relating to:** expenditure of \$23,053.80 from the general fund in payment
2 of a claim against the state made by Jerome and Theresa Wagner.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$23,053.80 from the general fund in payment of a claim made by Jerome and Theresa Wagner against the Department of Agriculture, Trade and Consumer Protection (DATCP). The claimants shipped milk on credit to a plant operated by Ryser Brothers Dairy of Wisconsin, Inc., in the village of Mount Horeb. On or about April 16, 1991, the plant closed and subsequently, its parent corporation filed for bankruptcy protection. At the time of the closing, the claimants assert that the plant owed them \$69,860. The records of the plant confirmed this figure. The claimants were unable to recover any of this amount in the bankruptcy settlement. The claimants assert that DATCP did not properly monitor the financial condition of the plant under s. 100.06, 1989 stats. (the dairy plant security law). DATCP asserts that, while it initially allowed the plant to operate based on its financial statements, when the financial position of the plant deteriorated, it required security to be posted. Ryser Brothers Dairy of Wisconsin, Inc., was unable to post the required security. DATCP also asserts that the dairy plant security law is not designed to insure against losses but rather to provide some level of assurance that dairy plants are operated in a financially responsible manner, and that it acted appropriately to carry out its responsibilities under the law. In addition, DATCP asserts that the claimants provided no itemized documentation of their claim. On March 6, 2000, the claims board recommended payment of \$23,053.80, representing one-third of the amount claimed by the claimants, on the basis of equitable principles (see 1999 *Senate Journal*, pp. 483-484).

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1. Claim against the state.** There is directed to be expended from
2 the appropriation under section 20.505 (4) (d) of the statutes, as affected by the acts
3 of 2001 and 2003, \$23,053.80 in payment of a claim against the state made by Jerome
4 and Theresa Wagner, Middleton, Wisconsin, to compensate them for the value of milk
5 that they shipped to a plant operated by Ryser Brothers Dairy of Wisconsin, Inc.,
6 prior to April 16, 1991, for which they have not been paid as a result of bankruptcy
7 proceedings, and the alleged failure of the department of agriculture, trade and
8 consumer protection to properly monitor the financial condition of the plant under
9 section 100.06, 1989 stats. Acceptance of this payment releases this state and its
10 officers, employees, and agents from any further liability resulting from losses
11 incurred by the claimants for milk shipped to this plant.

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(END)