

JOURNAL OF THE ASSEMBLY [May 17, 1978]

STATE OF WISCONSIN

Assembly Journal

Eighty-Third Regular Session

WEDNESDAY, May 17, 1978.

The chief clerk makes the following entries under the above date:

COMMUNICATION

State of Wisconsin
Department of State
Madison

To Whom It May Concern:

Dear Sir: Acts, joint resolutions and resolutions, deposited in this office, have been numbered and published as follows:

Bill, Jt. Res. or Res.	Chapter No.	Publication date
Assembly Bill 866	293	May 11, 1978
Assembly Bill 899	294	May 11, 1978
Assembly Bill 947	295	May 11, 1978
Assembly Bill 984	296	May 11, 1978
Assembly Bill 1056	297	May 11, 1978
Assembly Bill 1069	298	May 11, 1978
Assembly Bill 1078	299	May 11, 1978
Assembly Bill 1081	300	May 11, 1978
Assembly Bill 1092	301	May 11, 1978
Assembly Bill 1112	302	May 11, 1978
Assembly Bill 1141	303	May 11, 1978
Assembly Bill 1152	304	May 11, 1978
Assembly Bill 1240	305	May 11, 1978
Assembly Bill 1019	313	May 13, 1978
Assembly Bill 355	314	May 15, 1978
Assembly Bill 394	315	May 15, 1978
Assembly Bill 786	316	May 15, 1978
Assembly Bill 1016	317	May 15, 1978
Assembly Bill 1099	319	May 15, 1978
Assembly Bill 1148	320	May 15, 1978
Assembly Bill 1236	321	May 15, 1978

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Assembly Bill 1274	----- 322	----- May 15, 1978
Assembly Bill 300	----- 325	----- May 15, 1978
Assembly Bill 445	----- 326	----- May 15, 1978
Assembly Bill 722	----- 327	----- May 15, 1978
Assembly Bill 900	----- 328	----- May 15, 1978
Assembly Bill 903	----- 329	----- May 15, 1978
Assembly Bill 946	----- 330	----- May 15, 1978
Assembly Bill 1039	----- 331	----- May 16, 1978
Assembly Bill 1113	----- 332	----- May 16, 1978
Assembly Bill 1130	----- 333	----- May 16, 1978
Assembly Bill 1133	----- 334	----- May 16, 1978
Assembly Bill 1277	----- 335	----- May 16, 1978
Assembly Bill 796	----- 352	----- May 16, 1978
Assembly Bill 874	----- 354	----- May 17, 1978

DOUGLAS LaFOLLETTE
Secretary of State

SPEAKER'S APPOINTMENTS

May 11, 1978

Chief Clerk Everett E. Bolle
217 West, State Capitol
Madison, Wisconsin 53702

Dear Ev:

I have today appointed Representative Marlin Schneider to the Assembly Committee on Education.

ED JACKAMONIS
Speaker

COMMUNICATION

State of Hawaii
Ninth Legislature

House Concurrent Resolution 147

Expressing mahalo (thank you) to state legislative leaders who have rallied to support efforts to obtain emergency oil reserves for Hawaii.

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Whereas, Hawaii has a unique problem in that it is almost solely dependent on oil for energy; and

Whereas, Hawaii presently has no oil reserves within the State which could be available in the case of emergencies such as an oil boycott; and

Whereas, it would take many weeks for oil to reach this State from the Department of Energy's proposed oil storage area on the mainland; and

Whereas, the Presidents of the Senate, the Speakers of the House and other state legislative leaders of the sister states of Hawaii sent telegrams and letters to President Jimmy Carter and their congressional delegations in support of the proposition to make Hawaii the recipient of ten million barrels of crude oil to meet any oil crisis; and

Whereas, the response and support among state legislative leaders for this cause is heartening and much appreciated; and

Whereas, the support of these state legislative leaders was given in the spirit of "Aloha"; now, therefore,

Be it Resolved by the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, the Senate concurring, that this body extends its appreciation to the following legislative leaders for their support in Hawaii's efforts to acquire an emergency oil reserve: Speaker of the House Joseph C. McCorquodale, Jr., Alabama; Speaker of the House Hugh Malone, Alaska; Senate President John L. Rader, Alaska; Senate President Ed C. Sawyer, Arizona; President Pro Tempore W. K. Ingram, Arkansas; Lieutenant Governor Mervyn M. Dymally, California; President Pro Tempore Joseph J. Fauliso, Connecticut; Lieutenant Governor James D. McGinnis, Delaware; Speaker of the House Donald L. Tucker, Florida; Assistant Majority Leader of the House Corneal A. Davis, Illinois; Assistant Majority Leader of the Senate Kenneth Hall, Illinois; Speaker of the House William A. Redmond, Illinois; Speaker of the House Kermit O. Burrous, Indiana; Senate President Ross O. Doyen, Kansas; Chairman of the Committee on Natural Resources Claude B. Duval, Louisiana; Assistant Majority Leader of the Senate Steny H. Hoyer, Maryland; Senate President Kevin B. Harrington, Massachusetts; Speaker of the House Bobby D. Crim, Michigan; Speaker pro tempore of the House Matthew McNeely, Michigan; Senate President Edward J. Gearty, Minnesota; Speaker of the House C. B. Newman, Mississippi; Speaker of the House Kenneth J. Rothman, Missouri; Speaker of the

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House George B. Roberts, Jr., New Hampshire; Senate President Matthew Feldman, New Jersey; President Pro Tempore John T. Henley, North Carolina; Speaker of the House Vern Riffe, Ohio; Senate President Pro Tempore Gene C. Howard, Oklahoma; Speaker of the House Philip D. Lang, Oregon; Speaker of the House Edward P. Manning, Rhode Island; Lieutenant Governor W. Brantley Harvey, Jr., South Carolina; President Pro Tempore Betty Andujar, Texas; Senate President Moroni L. Jensen, Utah; President Pro Tempore Edward E. Willey, Virginia; Speaker of the House John A. Bagnariol, Washington; Speaker of the House Ed Jackamonis, Wisconsin; Senate President L. Donald Northrup, Wyoming; and

Be it further resolved that certified copies of this Concurrent Resolution be transmitted to each of the legislative leaders mentioned above, Governor George R. Ariyoshi of the State of Hawaii, James R. Schlesinger, Secretary of the Department of Energy, President Jimmy Carter, and Hawaii's congressional delegation.

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison

To the Honorable, the Assembly:

The following bills, originating in the assembly, have been approved, signed and deposited in the office of the Secretary of State:

Assembly Bill	Chapter No.	Date Approved
112 -----	368 -----	May 11, 1978
353 -----	369 -----	May 11, 1978
432 -----	370 -----	May 11, 1978
519 -----	371 -----	May 11, 1978
593 -----	372 -----	May 11, 1978
606 -----	373 -----	May 11, 1978
794 -----	374 -----	May 11, 1978
881 -----	375 -----	May 11, 1978
894 -----	376 -----	May 11, 1978
1024 (partial veto) -----	377 -----	May 11, 1978
1031 -----	378 -----	May 11, 1978
1111 -----	379 -----	May 11, 1978
1146 -----	380 -----	May 11, 1978
98 -----	383 -----	May 12, 1978
199 -----	384 -----	May 12, 1978

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246 -----	385 -----	May 12, 1978
303 -----	386 -----	May 12, 1978
492 -----	387 -----	May 12, 1978
518 -----	388 -----	May 12, 1978
612 -----	389 -----	May 12, 1978
705 -----	390 -----	May 12, 1978
754 -----	391 -----	May 12, 1978
811 -----	392 -----	May 12, 1978
878 -----	393 -----	May 12, 1978
885 -----	394 -----	May 12, 1978
1037 -----	395 -----	May 12, 1978
1103 -----	396 -----	May 12, 1978
1117 -----	397 -----	May 12, 1978
1159 -----	398 -----	May 12, 1978
1161 -----	399 -----	May 12, 1978
1170 -----	400 -----	May 12, 1978
1220 (partial veto) -----	418 -----	May 12, 1978
523 -----	419 -----	May 13, 1978

Respectfully submitted,
MARTIN J. SCHREIBER
 Acting Governor

GOVERNOR'S VETO MESSAGES

May 11, 1978

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 1024** as Chapter 377, Laws of 1977, and deposited it in the office of the Secretary of State.

Assembly Bill 1024 represents a major step toward safely handling and disposing of the 200,000 tons of hazardous waste annually generated in Wisconsin. A three-step licensing and planning procedure is created for assuring proper site location, operation and closure. These stringent licensing requirements help guarantee that hazardous waste disposal practices today will not become a problem for our children tomorrow. In addition, a waste management fund is created which would pay for restoration costs arising from any environmental occurrences which were not anticipated in the management plan or which happened after the site operator's long-term care responsibility terminated. This fund would be financed through tonnage disposal fees. This bill also provides for

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a hazardous substance spill fund which would be used to take emergency action on spills.

This bill is unique since it is the first major environmental legislation which has pulled together environmental, industrial, mining and legislative interests into one bill. I compliment this coalition on their final product and hope that other crucial environmental issues can be resolved in as cooperative manner as we have dealt with hazardous wastes.

Section 7m (s. 84.205, Wis. Stats.) is created under Assembly Bill 1024 to allow local units of government to be reimbursed by the State Department of Transportation for expenses incurred for damage done to highways by vehicles transporting solid waste to a disposal site. There are three problems caused by this language:

(1) There is no increase in the appropriation authorized for s. 20.395 (1) (ud), which is the section under which this reimbursement would be funded. This new draw on the appropriation is expected to require between \$300,000 to \$500,000 annually from county forest road aids and highway disaster fund aids. The annual appropriation for these current aids is \$500,000. This reimbursement would represent a continuing and increasing draw upon the Transportation Fund in the years to come.

(2) The maintenance and repair formula currently reimburses local governments for road maintenance on the state trunk highway system. Litter pick-up, a major problem associated with disposal site access roads, is currently reimbursable. If the local government would designate a state trunk road as an access road, all repair and maintenance costs would currently be reimbursed.

(3) In addition, it would be difficult, if not impossible, for the Department of Transportation to distinguish damage done to a highway by solid waste transporters and by other vehicles, especially on busy roads. Due to the imprecision involved in assigning damage and the bill language which encourages municipalities to pursue judicial review of DOT damage award decisions, this language would invite non-productive litigation. The veto of this section will facilitate administration of this bill and minimize possible litigation.

Section 18 (s. 144.441 (3) (a), Wis. Stats.) provides that certain waste materials which can be used for construction purposes are not subject to the waste management fund disposal fee. If these waste materials were to be disposed of separately, their disposal would require approval and licensing. All of these materials have the potential for contaminating ground and surface water, as well as

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creating problems with erosion and sedimentation. This language could provide a loophole that some applicants may try to abuse, since the exemption would be provided for all items "suitable" for use in the specified purposes; it does not require that such items actually be used for construction purposes. The item veto would provide the fee exemption only for those specified items which are actually used for enumerated environmentally sound construction purposes.

There are a variety of technical items which are required to achieve legislative intent:

(1) Section 11m requires that rules to regulate metallic mining disposal sites would comply with "any or all" of Chapters 30, 144 and 147. The veto of "any or all" would not give the department discretion in deciding which chapters would need to be complied with and would not give mining companies a potential loophole to water down rules relating to mining wastes.

(2) Section 17 (s. 144.44 (3) (e) and (4) (a), Wis. Stats.) would require DNR to show that violations have been "grievous and continuous" before the disposal site operator's license could be revoked. To prove a "grievous failure to comply" would first require an unambiguous definition of "grievous." In addition, it would be difficult to administratively establish a "grievous" failure to comply even after a definition has been promulgated. A veto of "grievous failure to comply" would provide for easier administration and would require the same evidence for solid waste license revocation as is required for revocation of other pollution control licenses issued by DNR.

(3) Section 18 (s. 144.441 (2)(c), Wis. Stats.) contains a typographical error. The word "or" should be vetoed.

(4) Section 23 (s. 144.76 (9) (c), Wis. Stats.) provides that, "Any person discharging an air contaminant under a program approved under ch. 144 is exempted with respect to the air contaminant from the reporting and penalty requirements of this section." I have stricken the words relating to air contaminants because they are unnecessarily restrictive in the light of the wider range of contaminants controlled under Chapter 144. It is reasonable that other contaminant discharges approved under Chapter 144 also be exempt from the reporting and penalty requirements under the new law.

Respectfully submitted,
MARTIN J. SCHREIBER
Acting Governor

GOVERNOR'S VETO MESSAGES

May 12, 1978

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 1220** as Chapter 418, Laws of 1977, and deposited it in the office of the Secretary of State.

This annual review budget bill represents an innovative and responsible approach to our state's needs for now and the future. It demonstrates that this government is able to live with prosperity, exercise prudence and maintain a course of fiscal responsibility.

The major, new initiatives in the bill provide tax relief for our people. The list is impressive:

A ten percent property tax reduction which targets relief to the middle income people who need it most;

Establishment of the Wisconsin Fund to offset property tax expenditures for municipal wastewater treatment systems and meet other environmental needs;

A tax reform fund of \$80 million to provide tax relief and reform next biennium;

An increase in school aids to maintain the state's commitment to fund 40 percent of school costs and at the same time deal with the problem of declining enrollments;

The establishment of the Budget Stabilization Fund which will serve to keep future state expenditures under tighter control.

In addition, this bill takes important steps in the areas of housing conservation, wellness and prevention, transportation, farmland preservation and veterinary medicine. All in all, this annual review bill is a document in which we can take great pride. I have exercised the partial veto in some instances to reduce expenditures and make other improvements in the bill. A listing of my reasons for those vetoes is printed below.

Natural Resources

Appointments to the Commercial Fishing Boards [Section 21r]

I am making an item veto of a portion of section 21r of AB 1220. This deletion removes restrictions on the nominations received and the source of those nominations for appointments to the commercial

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fishing boards created in the bill. One of the key components of the comprehensive changes made to the state's commercial fishing laws in the bill is the creation of commercial fishing boards for Lake Superior and Lake Michigan. The bill provides that appointments to the boards are made by the governor, but these appointments may only be made from nominations by the Department of Natural Resources and the fisheries industries. Although I will welcome nominations from both, I will want to consider the nominations of other interested parties.

In addition, the limitations on the source of nominations could allow either DNR or the fisheries industry to dictate appointments by nominating only a single person for a single slot.

Expanded Eligibility Under the Septic Tank Portion of the Point Source Grant Program [Section 633]

The language in section 633 limits eligibility for grants under the point source pollution program to septic "tanks." This limitation was inadvertent since the purpose of the rehabilitation program is to deal with failing systems, not the tanks. The problems are with poor percolation or absorption field failure.

The bill also limits eligibility of private systems to those within jurisdictions of 1,000 or less persons. Such a limitation makes no sense and would prohibit a comprehensive program initiated at a multi-town or county level.

Joint Finance Approval of the DNR Land Acquisition and Development Plan [Section 224]

This section establishes a cumbersome process requiring that the Department of Natural Resources initiate a Joint Finance request for every change proposed in their land acquisition and development plan. Current law requires that the governor approve an expenditure plan and that any deviation be reviewed by the Joint Finance Committee. Under the procedure the legislature added, every change for a project would require convening the Joint Finance Committee, as though there was an emergency, to obtain approval so that an acquisition or action could take place. I do not believe that sort of detailed oversight was contemplated by the drafters of this language.

Termination Date for ORAP Bonding Program for Pollution Abatement [Section 631]

AB 1220 currently establishes June 30, 1978, as the deadline for DNR to enter into contracts to disburse both the original \$144

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million of bonding for point source pollution abatement and the additional \$13 million of bonding approved in 1977.

The purpose for the establishment of a cut-off deadline for the obligation of previously appropriated bonding funds was to assure the timely termination of the ORAP bonding. However, the \$13 million ORAP extension approved in 1977 may not be fully committed by June 30, 1978, due to unavoidable timing problems. The Legislative Audit Bureau states that any contracts made must be entered into before the end of the authorized period. This would mean that approximately 15 communities which have already applied for and are eligible for ORAP extension funding would not receive ORAP funding. This would require these local governments to go through another application process and a 1-year waiting period by applying to the Wisconsin Fund program for these projects. The other option would be for the local government to fund 100 percent of these project costs. Neither of these alternatives is acceptable when there are unappropriated ORAP balances which could be used. I have, therefore, deleted the termination date.

Fleet Boat Registrations [Section 258x]

Section 258x of AB 1220 restores the fleet boat registration fees that were in effect prior to the 1977-79 biennial budget bill. The language deleted would have allowed a person owning a fleet of boats ready for hire to pay a flat fee of \$7.50 plus \$1.50 per boat to register for a three-year period rather than the present \$4.50 per boat for the same period.

Boat registration fees fund the state's boat safety and enforcement aid programs. These programs are related to the number of actual boats in the state--each boat adds a need for these programs. Each boat should, therefore, share equally the costs of the programs. Treating all boats the same also facilitates the ease of collecting registration fees and the sale of fleet boats to individuals.

DNR Approval of County-Wide Solid Waste Management Plans [Section 636]

Currently, DLAD has the statutory authority to approve county solid waste management plans. Both AB 1024 and AB 1220 would give this authority to DNR. However, the language in AB 1024 is preferred since it specifies time deadlines for both submission of plans to DNR and DNR approval of plans. In addition, the language contained in AB 1024 strengthens the role of local planning agencies by mandating that DNR consult with these planning agencies (including the "208" water quality agencies) to determine that the

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proposed solid waste plan is consistent with other zoning or water quality plans which DNR may not have direct knowledge of. For these reasons, I have already signed AB 1024 and will veto the solid waste planning section contained in AB 1220. This will assure an efficient and comprehensive solid waste management plan review process.

DNR Notice of Need for a Hearing Examiner from DOA [Section 716g]

As part of the transfer of hearing examiners from the Department of Natural Resources to the Department of Administration, a provision was inserted requiring DNR to give DOA five days notice that a hearing examiner would be needed for an administrative action. I have deleted that provision.

DNR regularly receives incomplete or invalid hearing requests which must be denied for jurisdictional reasons. Since a thorough review of hearing requests can not be made by DNR in five days, the notification of DOA would at times occur and then have to be withdrawn. If a notification period is desirable, a statutory change could be proposed later which establishes a more reasonable notice requirement.

Non-Navigable Farm Drainage Ditches [Sections 258wg and 258wr]

These sections of the bill relate to the dredging of farm drainage ditches. The provisions in this bill are the same as Assembly Bill 186, which I vetoed, with two exceptions:

(1) The budget review provision exempts only those drainage ditches within drainage districts, rather than all farm drainage ditches.

(2) A definition of "farm drainage ditch" is included in the budget provision.

The budget provision would prevent DNR from regulating dredging and filling in drainage district ditches. Natural streams which were ditches would not be regulated unless DNR had demonstrated that there is a stream history. Practically, the provision means that DNR could not regulate dredging or filling in drainage ditches even though such activity can damage natural streams and further reduce wetlands.

This provision is likely to be found unconstitutional if challenged because it abrogates the responsibility of the state to protect the

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public trust in navigable waters. In addition, it does not provide equal treatment to all people in similar situations.

More importantly, the provision sets a dangerous precedent. There has been pressure in the legislature to weaken many of the laws protecting public rights in public waters. Attempts have been made to weaken flood plain and shoreland zoning requirements, eliminate the requirement for public access to navigable waters within new subdivisions, and ease restrictions on bridge construction. Enactment of the budget provision would reinforce these efforts to incrementally weaken the protection given navigable waters.

In order for a drainage system to function it must have a suitable outlet. All drainage systems have ultimate outlet into a public waterway. Without a connection to public waters, drainage would not be successful. Attaching drainage systems to public waters subjects that waterway to increased flood flow, greater siltation loading, increased fertility and decreased dry season flow. The public is not compensated for this use of public waters, although the public bears the cost. It would be reasonable to expect, at the very least, that activities in drainage ditches minimize their adverse impacts on waterways. This can only be assured by some type of public oversight. The budget provision eliminates all oversight.

In vetoing Assembly Bill 186, I offered an alternative permitting systems which would have relieved the burden and delay faced by farmers when applying for individual permits required for maintaining ditches, but would have adequately protected the public's interest in navigable waters. This alternative was resisted by some of the same legislators who now favor the budget provision.

The DNR has already made some progress in speeding up the permit process. I am certain the process can be streamlined further without compromising our state's responsibility to protect its natural resources.

Health and Social Services

Payment to Nursing Homes of 1975 Costs [Sections 923 (18)(cm) and 927 (18)(og)]

During 1976, the state was notified by the Department of Health, Education and Welfare that the state method for determining the 1974 nursing home rates had not met their approval. This resulted in a disallowance of \$2.2 million, which Wisconsin is currently contesting.

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That same methodology had been used for determining 1975 rates. Since we were in the process of reviewing 1975 rate increases for nursing homes via the Nursing Home Appeals Board, it was decided that modifications for granting those rates would be made consistent with the DHEW regulations. Consequently, imposing the DHEW guidelines, \$3.0 million of requested rate increases were denied for nursing homes in order to comply with federal regulations.

The nursing home industry maintains that the \$3 million in disallowed rates for 1975 is owed them by the state and is currently litigating this issue in the courts. Until such time as the liability, if any, of the State of Wisconsin and the U.S. Department of Health, Education and Welfare is adjudicated, I do not feel it would be appropriate for the state to finance such costs alone.

The state continues to maintain that it determined 1975 nursing home rates within the proper regulations as issued by DHEW. By appropriating these dollars, the state has admitted a liability which the courts must decide. Furthermore, by this legislative action, the state would lose approximately \$1.8 million in federal financial participation for sharing 60 percent of the \$3 million. If the state appropriates these dollars, further litigation could be moot. The DHEW would not be sharing the costs, should we be liable.

Finally, it sets a dangerous precedent to disregard the mechanisms established to contain the rising health care costs. It is inappropriate for the state to allow any industry to disregard the cost-containment efforts we have instituted.

Until litigation is completed, I cannot endorse the predetermined verdict which is implied through this appropriation.

Access to Clinical Records of Private Pay Patients [Section 897]

I am striking section 897 as created by Assembly Bill 1220 because of its all-inclusive restriction on the access to clinical records of private pay patients. The restriction established undue constraints on health care providers, and will hinder the review of health service delivery in the state. For example, this restriction would prohibit authorized state personnel from properly surveying health care facilities for the purpose of state licensure. Consequently, the state would be limited in its ability to review the quality of care being provided patients.

Equally important is the impact such a measure would have on providing prompt and appropriate medical treatment to individuals. Emergency care could be hampered in particular if physicians are not

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able to have immediate access to vital medical records. Such life-threatening situations could mean irreparable harm to persons who do not have written consent immediately available. Adequate guidelines and assurances currently exist among those entities regarding access to confidential records.

Contract for Community Services Information System [Section 927(18)(em)]

This partial veto removes the restriction that funds appropriated for a comprehensive study of informational needs of the Division of Community Services in the Department of Health and Social Services be utilized to privately contract for these services. By striking the word "privately" the Department will be able to contract with another state agency for these services, as well as a private firm.

Recovery of Excess Payments for Purchase of Care and Service Contracts [Section 292]

This deletion clarifies that all public agencies that purchase care and services through contracts can recover excess payments by reducing subsequent payments to the agency providing the service. This was the intent of the proposed language changes. However, the language as written could be interpreted to mean that this method of recovery was only available to the Department of Health and Social Services and not other public agencies.

Old Age Assistance Lien Waiver [Section 339m]

I am vetoing Section 339m which relates to claims or liens under the old-age assistance program. This provision is inconsistent with Assembly Bill 246, which establishes a 10-year statute of limitations on recovery and has the practical effect of eliminating recovery in 1983. This is preferred from an equity standpoint because many liens have already been recovered, and from a fiscal standpoint as the AB 1220 approach would reduce GPR earned by \$200,000 per year.

Funding for Inspection and Licensing of Community-Based Residential Facilities [Section 927(18)(e)]

An item veto is made in Section 927(18)(e) to remove the restriction that funds and positions added to the Division of Community Services in the Department of Health and Social Services for inspection and licensing of community-based residential facilities be utilized for program reviews only. By striking the word "program", the Department will have the ability to utilize these resources for both program and physical facility reviews. Restricting

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staff to one type of activity would not be the most efficient use of resources.

Probation and Parole Revocation Procedures [Sections 903 and 904]

Sections 903 and 904 have the effect of repealing changes made by Senate Bill 494 which I recently signed into law. The changes made in SB 494 were made at the suggestion of the Supreme Court in order to permit a trial court to sentence a revoked probationer or parolee to a term either concurrent or consecutive to a sentence imposed between the imposition and revocation of the original probation. Current law permits only concurrent sentencing in such instances.

Human Growth and Development Coordinator [Section 927(39)(o)]

I have partially vetoed section 927(39)(o) in order to allow CESA districts to share a human growth and development coordinator. It is not necessary that every CESA district have a coordinator; economy and efficiency suggest that more than one district could reasonably share the services of a single coordinator.

Children's Code [Sections 305, 306 and 928(55)(c)]

I am vetoing sections 305, 306 and 928(55)(c) in order to resolve conflicts with statutory language of the recently enacted children's code.

Revenue

Homestead - Eligibility of Residents of Tax Exempt Nursing Homes [Section 502m]

This section would permit private pay patients of tax exempt nursing homes to receive the Homestead Tax Credit. I have vetoed this language.

The Homestead program seeks to provide relief to individuals faced with excessive property taxes. Providing relief to claimants who do not pay property taxes is inconsistent with the intent of the program. In addition, there are administrative and equity problems involved since patients may and frequently do move from private pay to public pay status based upon changing financial conditions and asset levels.

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Access to Tax Returns - Legislative Organization Committees [Section 513]

Section 513 provides access to confidential tax returns to only the Senate and Assembly Committees on Organization provided the examination of these returns is approved by a majority vote of a quorum of the respective committees. I have partially vetoed this section so that the Joint Committee on Legislative Organization can also have access to tax returns.

There are certain occasions when a request for information may more appropriately originate in the JCLO than in the organization committees of either house. This veto will take care of both situations.

Access to Tax Returns - Department of Justice [Sections 512, 516, 548 and 552]

Sections 512, 516, 548 and 552 increase the restrictions on access to state tax returns to guarantee their confidentiality. These sections, in concert, would restrict the access to tax returns accorded the Department of Justice in the daily execution of their responsibilities. Specifically, in non-tax criminal or civil prosecutions or investigations, the Department of Justice would be required to obtain a court order directing that they be given access to the pertinent tax returns.

These restrictions on the Department of Justice are excessive since they would make more difficult investigative reviews by the department in the area of unemployment compensation, eminent domain, white collar crime and other civil and criminal investigations for the state. The Department of Justice does not have access to a court order for this purpose because, unlike the federal system, the state does not have continuous grand juries. To eliminate these problems, I have vetoed portions of this language.

Taxation of Jointly-Owned Utility Property [Section 527]

Section 527 specifies that all heat, power and light companies, with the exception of Wisconsin electric cooperatives, operating a joint venture will be subject to ad valorem taxation by the state. This section intended to include out-of-state companies under state ad valorem taxation. However, this intent is not clear in section 527. I have vetoed a portion of this language to clarify that out-of-state companies participating in a joint venture will be subject to state ad valorem taxation under s. 76.01 to 76.26.

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Levy Limit Exclusion for Retroactive Wage Increases [Sections 384m, 393m, 400m, 406m and 486g]

These sections create an exclusion from levy limits for retroactive wage increases authorized by a mediator-arbitrator. I have vetoed this exclusion from levy limits.

This exclusion is unnecessary for several reasons. First, even though a labor contract has not been settled, municipalities have previously levied for a salary reserve contingency fund to cover anticipated wage increases. Second, Chapter 178, Laws of 1977, provides for impasse resolution so that wage negotiation should no longer be delayed for as much as a year. Third, most large cities (where a retroactive wage increase may be sizable) are not at present close to their levy limitation. Thus, it is unlikely that any retroactive wage settlements would exceed levy limits. According to Public Expenditure Survey data for 1977 levies, only 14 of the 53 municipalities with populations over 10,000 have used 90 percent or more of their allowable levy increases. Finally, this type of exclusion can create situations where collective bargaining settlements are artificially structured in order to avoid levy limit restrictions. In essence, such an exclusion becomes inappropriately part of the bargaining and settlement process.

Tax Increment Financing - Department of Revenue Authority [Section 421]

Section 421 requires that the Department of Revenue not certify a tax incremental base until it determines that the procedures and documents which create a TIF District and the procedures and documents which amend a TIF Project Plan have been timely completed as is required by law. The section does not give DOR authority to review the procedures creating the original project plan, only amendments to the project plan, even though the procedures to be followed are, by law, required to be the same for both the original project plan and any amendments to it.

I have vetoed a portion of section 421 in order to clarify that DOR can review the documents and procedures for both the original project plan and any amendments to it since the documentation and procedures to be followed are to be the same. Without the veto, DOR may be required to approve a project plan amendment which amends an original plan which was not properly drawn.

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Farmland Tax Credit - Estates and Trusts [Sections 506m and 928(42)(m)]

Sections 506m and 928(42)(m) clarify that any farmland tax credit received by estates or trusts is taxable income. However, the language making this clarification takes effect for claims filed in calendar year 1979. Credits received by estates or trusts in calendar year 1978 may or may not be taxable income. I have vetoed a portion of this language to clarify that farmland tax credits received by estates and trusts in calendar year 1978 are taxable income.

"Manager's" License [Sections 408j, 408k, 675m and 930(55)(c)]

Sections 408j, 408k, 675m and 930(55)(c) make manager's licenses mandatory for a person who manages premises operating under a Class "A" retail or a "Class B" retail license, unless the person is the licensee. I have vetoed this entire provision.

Under Assembly Bill 1119, which is awaiting action by me, manager's licenses could be required at the option of each municipality through the passage of an appropriate ordinance. Since the manager's license will require additional administrative activity on the part of local clerks and local law enforcement personnel, I believe the decision to issue manager's licenses should be made at the local level.

Inheritance and Gift Tax - Power of Appointment [Sections 517t, 517v and 928(42)(j)]

Sections 517t, 517v and 928(42)(j) conform the Wisconsin and federal definitions of general power of appointment for both inheritance and gift tax. While making this definitional change, these sections also eliminate the current law's precise guidance on how powers of appointment are to be taxed under the inheritance tax. To eliminate potential disputes between estates and the Department of Revenue, I have vetoed portions of the language to retain the current statutory direction on how distributions under powers of appointment are valued for inheritance tax purposes.

Without this veto, the statutes would be silent on how to tax the power of appointment. The Department of Revenue would have had to develop an administrative policy to establish a method of taxing in the absence of a clear statute. This veto retains the statutory language which specifies how a power of appointment is valued. This veto will not effect the other language in sections 517t, 517v and 928(42)(j), which conform the Wisconsin and federal definitions of general power of appointment.

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Transportation

Eligibility Under the Rail Service Grant Program and the Rail Preservation Loan Program [Sections 577g, 577m and 923 (48) (fm)]

Portions of sections 577g, 577m and 923 (48) (fm) of Assembly Bill 1220 are stricken to broaden the eligibility under the rail service grant program and the rail preservation loan program. By deleting the phrase "municipally owned" in section 577g, the Department of Transportation will be able to make rail service grants to worthy municipalities other than those that own railroads to reimburse them for moneys expended to continue the operation or improve the service of any railroad. Striking the word "uniform" in section 577m in relation to specifications for rail preservation loans enables the Department to tailor loans to applicants' financial needs and abilities. Inclusion of the stricken word would not have been equitable, and the Department could not have anticipated every possible local situation in adopting uniform specifications. Finally, the elimination of the words "to transmit commissions" in section 923 (48) (fm) would allow rail preservation loans to be made to any county, municipality, town or agency thereof, as well as transit commissions. This change would restore consistency between the definition of an eligible applicant for a rail preservation loan in section 577m and the session law requiring the Department to adopt specifications for such loans.

Administrative Costs of the Rail Service Grant Program [Section 927 (48) (m)]

This section is deleted to provide sufficient funds for the increased administrative costs of unbudgeted, new departmental responsibilities relating to rail activities, mopeds and dual purpose farm truck plates. The item veto will provide that the administration of the rail services program will be paid from the Transportation Fund and that the Department will have sufficient funds to administer its ongoing programs and programs mandated by separate legislation that did not provide for appropriation increases.

Matching Funds for Rail Branch Lines and Car Ferries [Section 927 (48) (b)]

The bill contains \$200,000 in funding for assistance to rail lines and car ferries. The partial veto of this section has the effect of making those funds available as a match for a broader range of federal funding sources.

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Veterans Affairs

Housing Value Limitations for Veterans Home Loan Program [Section 286tf]

Section 286tf makes adjustments to the housing value limitations for the veterans home loan program. The effect of the partial veto in this section is to establish a \$50,000 ceiling on the value of the home, including the garage, land and other non-housing improvements which can be purchased through the first mortgage program.

The legislature, in amending this section, inadvertently removed the total value ceiling which has been an essential part of the program. The language, as it reached my desk, would provide that an individual could secure a veterans home loan for a home including a garage valued at two times his annual income. However, under this option, the value of the land and other non-housing improvements could be of any value with no limitation. This could result in loans for purchases of \$70,000 or \$80,000 or more. The veto, therefore, establishes the highest maximum loan limit possible -- \$50,000. The \$50,000 limit, although not increasing the maximum value for new homes that become effective July 1, 1978 under current law, does increase the maximum value limit for used homes from the July 1, 1978 level of \$45,000 in the current law to \$50,000.

Without this deletion it is more likely that the amount of bonding now allocated the first mortgage program will not be sufficient to cover the demand for loans through 1978. It would be regrettable indeed if removing the ceiling on housing value as the bill does had the effect of denying loans to deserving veterans in November and December.

Administration

Office of State Planning and Energy [Section 927 (1) (cm)]

Section 927 (1) (cm) has an adverse effect on Wisconsin's ability to engage in energy planning activities, not just those associated with federal mandates.

At the time the Office of Emergency Energy Preparedness was merged with the State Planning Office, the number of state-funded positions in the energy unit was reduced from 10 to 4. The annual review bill would reduce the number to 2. A core of four positions is essential if we are to continue to have an effective energy planning unit to undertake energy conservation planning and to respond in a timely way to emergency situations relative to state energy needs.

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Use of federally funded positions for non-grant related activities would be grounds of audit disallowances.

I have deleted the section so that our energy planning capabilities will be sufficient to meet the challenges that are sure to continue during the next year.

Purchase of Certain Patented or Proprietary Articles [Section 64]

Section 64 could be misinterpreted to permit the state, when buying patented or proprietary articles, to ignore all considerations of competitive sealed bidding. In order to avoid this interpretation, this section is being deleted.

Local Affairs and Development

Housing Rehabilitation - Full Value of Property [Section 429]

Section 429 establishes several conditions which a municipality must meet in order to designate a neighborhood as a reinvestment neighborhood or area. One provision relates to the relative change of prices in residential property values. This section allows that provision to be met by comparing average sales prices in neighborhoods or by comparing full property values in neighborhoods as established by the Department of Revenue.

I have vetoed the provision which relates to DOR establishing full property values by neighborhoods. DOR does not presently maintain the data necessary to administer this provision. It would require substantial additional cost and staff to compile the information by neighborhood.

This veto does not make the section unworkable since the method of comparing average sales prices remains and will be used.

Tax Increment Financing [Section 928 (42) (d) (5)]

I have vetoed section 928 (42) (d) (5) because it has the unintended effect of applying to tax increment financing payments which have already been made during the current year.

Effective Date of Program Revenue Appropriation [Section 930 (32)]

Section 930 (32) establishes a July 1, 1978, effective date for various statutory changes relating to the Department of Local Affairs and Development. One of the statutory changes was the creation of a program revenue account for the Division of Emergency Government. I have vetoed the effective date for this provision,

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thereby making it effective upon publication of the bill. The veto will allow DLAD to deposit funds collected at this year's Emergency Government Conference in the correct appropriation instead of in another account.

University of Wisconsin

Occupational Health Nurse Practitioner Program [Section 927 (50) (e)]

Section 927 (50) (e) provides \$247,000 in 1977-79 for an occupational health nurse practitioner program at the University of Wisconsin-Milwaukee.

Under the auspices of the UW Health Science Advisory Council, a two-year comprehensive study of nursing/nursing education in Wisconsin is being conducted by a wide range of institutions and agencies involved in nursing services and nursing education. The objective of the study is to develop a long-range plan for nursing in the state, including manpower needs, supply and distribution of nursing personnel, educational programs, clinical resources, cost and financing, and nursing roles. The study will be completed in January, 1979. State funding for the nurse practitioner program without the benefit of the findings of the study would be an unwise use of tax dollars.

Further, this item was not reviewed by the University Central Administration or Board of Regents since it was not requested through the normal University budget process. As such, its inclusion in the budget sets an undesirable precedent. Therefore, I have vetoed section 927 (50) (e).

Business Development

Use of Industrial Revenue Bonds for Commercial Laundries or Drycleaning Facilities and Commercial Facilities in Blighted Areas [Sections 429g and 429m]

These sections would have broadened the types of projects eligible for industrial revenue bond financing to include commercial laundry or drycleaning facilities in industrial parks and commercial facilities in blighted areas. As I indicated in the veto message on Senate Bill 688, I believe the use of industrial revenue bond financing must be looked at in a comprehensive way. We should not be expanding its use on a project-by-project basis.

The original intent behind this type of financing was to attract industry to Wisconsin and assist communities in retaining and

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expanding existing industrial plants. Amendments have continually been sought to the enabling statutes involved to expand eligibility to specific projects, some of which are only remotely related to industrial development.

Industrial revenue bonding can be a useful tool in economic development if it is targeted correctly and promotes development that would not otherwise take place. The two expansions in AB 1220 do not meet that test.

Reopening of the Genoa City Tourist Information Center [Section 927 (7) (c)]

A provision reopening the Genoa City tourist information center has been stricken. Tourist information centers at Beloit and Kenosha handle the large majority of tourists entering the state from the southeast. The Genoa City center was constructed when U.S. Highway 12 was upgraded to four lanes north of the Wisconsin-Illinois border. Since a similar upgrading did not occur in Illinois, and is not likely before the mid-1980s, and the traffic volumes at Genoa City are lower than at other permanent centers, the facility was closed at the end of the 1977 season. Since there is no indication that traffic volumes have increased and the Department of Business Development is evaluating the operation of all its centers in response to a Legislative Audit Bureau study, it would be premature to reopen the Genoa City center.

Miscellaneous

Exclusion of Mass Transit Employees from Retirement Coverage [Section 280m]

This section excludes employees of municipal mass transit systems operated under a management contract from participating in the Wisconsin retirement fund unless those employees vote to be included in the fund utilizing the new voting provisions established in section 431m. Due to the acquisition date contained in section 431m, the mass transit employees of Green Bay and Madison would be prohibited from continuing their participation in the Wisconsin Retirement Fund. The veto will eliminate this effect. It will also insure that section 431m will only apply to transit systems whose employees are not presently within the Wisconsin Retirement Fund. Specifically, it will make the section inapplicable to systems in Appleton, Manitowoc and Oshkosh.

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Appointment of Council on Criminal Justice Staff [Section 8]

Section 8 requires the executive director of the Council on Criminal Justice to appoint all staff under chapter 230. This language intended to ensure that the director follow civil service procedures when filling classified positions. However, this language has the unintended effect of requiring the unclassified regional staff positions in the Council to move into the classified service. I have partially vetoed this section to preserve the current procedure and status of employees of the Council.

Wisconsin Special Olympics [Section 82]

I have vetoed section 82 [20.255 (1)(dm)] because it provides an appropriation for the Special Olympics in 1977-78, which are already underway throughout the state and for which funding has already been secured.

Uniform Commercial Code [Sections 786, 787 and 788]

I am line vetoing sections 786, 787 and 788 of AB 1220 affecting the state's Uniform Commercial Code statutes. A bill signed into law in April contained language virtually identical to this. Failure to remove these duplicate sections could lead to conflicting procedures and increase unnecessary and costly paperwork for financial institutions.

Union Service Leave [Sections 279, 279m and 928 (12)]

Sections 279, 279m and 928 (12) authorize an employee to continue the state employee group insurance coverages indefinitely while on union service leave. In recent years, several state employees have been granted a leave of absence while they engage in union activities. Under existing statutes and rules, such employees lose their right to participate in the state employee group insurance plans if the leave is for an extended period of time.

I agree with the legislature on the need for this change. However, I have deleted the provision which, after an employee has been on union service leave for three years, would automatically increase the amount of coverage to the amount which would have been in effect if the employee had reached the maximum of the employee's pay range. This provision could create a situation where coverage levels significantly exceed the coverage which would have been realized if the employee had not been on the leave of absence. Providing higher benefits to someone on a leave of absence than to someone who continues working for the state cannot be justified.

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I vetoed section 279m since this section contained duplicative language and was simply not needed.

Public Instruction

Contracting for Secondary Vocational Education

I have vetoed these sections (409m, 433d, 433f, 433r, 609g, 610m, 611a and 611b) because they jeopardize an interagency effort which I initiated to develop a comprehensive secondary vocational education policy for Wisconsin. These sections attempt to resolve only one element of the major policy issue. The provisions permit interdistrict contracting in order to obtain facilities for vocational education, without first identifying what programs should be provided at such facilities, the costs of which will be borne by all state taxpayers through the aid formula. The question of coordination and contracting with the VTAE system is not addressed.

Furthermore, these sections undermine cooperative educational service agencies which are the statutory intermediate units between the state and local school districts. In some cases, the sections could be used to justify and enable school districts to build new buildings in an era of declining enrollments without any assurance to the taxpayers that other alternatives have been considered and rejected. Between now and the 1979-81 biennial budget there is time to overcome these problems. That time will be used to develop a comprehensive proposal on this vital subject.

Respectfully submitted,
MARTIN J. SCHREIBER
Acting Governor