

# STATE OF WISCONSIN

## Senate Journal

### Ninetieth Regular Session

1:00 P.M.

Thursday, February 27, 1992

The senate met.

The senate was called to order by Fred A. Risser, President of the Senate.

The roll was called and the following senators answered to their names:

Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, Feingold, George, Helbach, Huelsman, Jauch, Lasee, Leean, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Stitt, Ulichny, Van Sistine and Weeden — 33.

Absent — None.

Absent with leave — None.

The Senate stood for a moment of silent meditation.

The Senate remained standing and Senator Breske led the senate in the pledge of allegiance to the flag of the United States of America.

#### INTRODUCTION OF BILLS

Read first time and referred:

##### **Senate Bill 528**

Relating to the regulation of cemeteries and cemetery salespersons and the deposit and investment of cemetery care funds.

By Senators Rude, Roshell, Leean, Decker and Moen; cosponsored by Representatives Lorge and Roberts.

To committee on Housing, Government Operations and Cultural Affairs.

##### **Senate Bill 529**

Relating to the appointment of cooperative educational service agency administrators.

By Senators Ulichny, Weeden, Schultz, Berndt, Roshell, Huelsman and Rude; cosponsored by Representatives Rohan, Young, Schneiders, Coleman, Turba, Wood, Brandemuehl, Darling, Nass, Goetsch, Swoboda, Radtke, Klusman, Gronemus, Hasenohrl, Bolle, Hisrich and Gard.

To committee on Education, Economic Development, Financial Institutions and Fiscal Policies.

##### **Senate Bill 530**

Relating to referenda on the issuance of school district bonds and promissory notes and leases for schools and school district facilities.

By Senator Lorman; cosponsored by Representatives Hahn, Ladwig and Rosenzweig, by request of Beaver Dam Tax Action Group.

To committee on Education, Economic Development, Financial Institutions and Fiscal Policies.

##### **Senate Bill 531**

Relating to allowing payment of the homestead tax credit to the estate of a claimant who dies before filing.

By Senator Barrett; cosponsored by Representatives Seery and Cullen.

To committee on Aging, Banking, Communications and Taxation.

##### **Senate Bill 532**

Relating to prescribing, labeling, dispensing and administering veterinary drugs and providing a penalty.

By Senators Moen, Schultz, Lorman, Decker and Rude, by request of Wisconsin Veterinary Medical Association.

To committee on Agriculture, Corrections, Health and Human Services.

##### **Senate Bill 533**

Relating to authorizing persons with practical experience to take an examination for licensure as a plumber.

By Senator Van Sistine, by request of Kim Spear.

To committee on Tourism, Commerce, Labor, Veterans' and Military Affairs.

##### **Senate Bill 534**

Relating to: state and local historic preservation programs; creating a submerged cultural resources council; authorizing cities, villages and towns to create architectural conservancy districts; the transfer of certain state property; requiring cities, villages and counties to regulate historic structures; demolition of historic buildings; regulating the use of abrasives to clean historic buildings; granting rule-making authority; providing a penalty; and making appropriations.

By Senators Ulichny, Rude, Risser, Stitt, Burke, Plewa and Andrea; cosponsored by Representatives Rohan, Lorge, Rosenzweig, Grobschmidt, Johnsrud, Boyle, Radtke, Roberts, Medinger, Hahn, Urban, Holperin, Musser, Potter, Darling, Hisrich, Lautenschlager, Notestein, Robson, Young, Brandemuehl, Vrakas and Hough.

To committee on Education, Economic Development, Financial Institutions and Fiscal Policies.

##### **Senate Bill 535**

Relating to a tax exemption for sales to community centers.

By Senators Rude, Lasee, Schultz and Farrow; cosponsored by Representatives Ladwig, Harsdorf, Silbaugh and Underheim.

To Joint Survey committee on Tax Exemptions.

COMMITTEE REPORTS

The select committee on Health Care Access and Affordability reports and recommends:

**Assembly Bill 655**

Relating to establishing a group health insurance plan for employes of small employers, creating a board to oversee the plan, creating a fund for catastrophic claims and a catastrophic claims fund board, creating an individual income tax deduction for certain medical care insurance costs paid by certain self-employed persons, granting rule-making authority and making an appropriation.

Introduction and adoption of Senate substitute amendment 1:

Ayes, 5 -- Senators Van Sistine, Moen, Jauch, Rude and Huelsman;

Noes, 2 -- Senators Barrett and Berndt.

Concurrence as amended:

Ayes, 6 -- Senators Van Sistine, Moen, Barrett, Rude, Lorman and Huelsman;

Noes, 2 -- Senators Jauch and Berndt.

Rodney Moen  
Co-Chair

Jerome Van Sistine  
Co-Chair

The committee on Judiciary and Consumer Affairs reports and recommends:

**Senate Joint Resolution 41**

Relating to the rights of victims of crime (first consideration).

Introduction and adoption of Senate substitute amendment 1:

Ayes, 5 -- Senators Adelman, Feingold, Chvala, Buettner and Stitt;

Noes, 0 -- None.

Adoption as amended:

Ayes, 5 -- Senators Adelman, Feingold, Chvala, Buettner and Stitt;

Noes, 0 -- None.

**Senate Joint Resolution 73**

Relating to distinguishing the state lottery from prohibited gambling, defining 'lottery', and removing from the gambling section of the constitution the prohibition of individual divorce grants by the legislature (first consideration).

Adoption:

Ayes, 5 -- Senators Adelman, Feingold, Chvala, Buettner and Stitt;

Noes, 0 -- None.

Lynn S. Adelman  
Chair

The committee on Urban Affairs, Environmental Resources and Elections reports and recommends:

**Senate Bill 283**

Relating to conservation of energy resources by state agencies and granting rule-making authority.

Introduction and adoption of Senate substitute amendment 1:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

Passage as amended:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

**Senate Bill 400**

Relating to selection of officers of county political party committees and members of congressional district political party committees.

Passage:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

**Senate Bill 474**

Relating to ozone-depleting substances, granting rule-making authority, providing an exemption from emergency rule procedures, providing penalties and making an appropriation.

Introduction and adoption of Senate substitute amendment 1:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

Passage as amended:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

**Senate Bill 491**

Relating to eliminating the fee for bonus deer hunting permits issued to residents.

Passage:

Ayes, 5 -- Senators Burke, Chvala, Decker, Stitt and Cowles;

Noes, 1 -- Senator Adelman.

**Senate Bill 497**

Relating to authorizing the chairperson of a county board to appoint alternate members to a county board of adjustment.

Introduction and adoption of Senate amendment 1:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

Passage as amended:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

**Assembly Bill 298**

Relating to public recreational access sites, local boating regulations and granting rule-making authority.

Introduction and adoption of Senate amendment 1:

Ayes, 6 -- Senators Burke, Chvala, Adelman, Decker, Stitt and Cowles;

Noes, 0 -- None.

Concurrence as amended:

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Ayes, 5 -- Senators Burke, Chvala, Adelman,  
Decker and Cowles;  
Noes, 1 -- Senator Stitt.

**Assembly Bill 334**

Relating to changing the titles of certain property tax officials of the city of Milwaukee.

Concurrence:

Ayes, 6 -- Senators Burke, Chvala, Adelman,  
Decker, Stitt and Cowles;  
Noes, 0 -- None.

**Assembly Bill 590**

Relating to a state energy policy and granting rule-making authority.

Introduction and adoption of Senate substitute amendment 1:

Ayes, 6 -- Senators Burke, Chvala, Adelman,  
Decker, Stitt and Cowles;  
Noes, 0 -- None.

Concurrence as amended:

Ayes, 6 -- Senators Burke, Chvala, Adelman,  
Decker, Stitt and Cowles;  
Noes, 0 -- None.

Brian Burke  
Chair

The committee on Mining reports and recommends:

**Assembly Bill 661**

Relating to regulation of mining and the investment and local impact fund.

Introduction and adoption of Senate amendment 1:

Ayes, 5 -- Senators Moen, Breske, Decker, Farrow  
and Huelsman;  
Noes, 0 -- None.

Concurrence as amended:

Ayes, 5 -- Senators Moen, Breske, Decker, Farrow  
and Huelsman;  
Noes, 0 -- None.

Rodney C. Moen  
Chair

The committee on Tourism, Commerce, Labor, Veterans' and Military Affairs reports and recommends:

**Senate Bill 446**

Relating to employment of minors 11 years of age or older in the sale of newspapers.

Passage:

Ayes, 8 -- Senators Van Sistine, Breske, Roshell,  
Plewa, Potter, Decker, Rude and Schultz;  
Noes, 0 -- None.

**Assembly Bill 530**

Relating to the designation of the period of military service in Vietnam.

Concurrence:

Ayes, 8 -- Senators Van Sistine, Breske, Roshell,  
Plewa, Potter, Decker, Rude and Schultz;  
Noes, 0 -- None.

**Senate Bill 416**

Relating to providing grants for transitional housing for homeless veterans and making an appropriation.

Passage:

Ayes, 8 -- Senators Van Sistine, Breske, Roshell,  
Plewa, Potter, Decker, Rude and Schultz;  
Noes, 0 -- None.

**Senate Bill 417**

Relating to providing health care treatment to Vietnam veterans suffering from non-Hodgkin's lymphoma or soft-tissue sarcoma.

Passage:

Ayes, 8 -- Senators Van Sistine, Breske, Roshell,  
Plewa, Potter, Decker, Rude and Schultz;  
Noes, 0 -- None.

**Senate Bill 292**

Relating to prohibiting employment discrimination on the basis of lawful activities pursued outside an employer's premises during nonworking hours.

Introduction of Senate substitute amendment 1:

Ayes, 8 -- Senators Van Sistine, Breske, Roshell,  
Plewa, Potter, Decker, Rude and Schultz;  
Noes, 0 -- None.

Introduction and adoption of Senate amendment 1 to Senate substitute amendment 1:

Ayes, 8 -- Senators Van Sistine, Breske, Roshell,  
Plewa, Potter, Decker, Rude and Schultz;  
Noes, 0 -- None.

Adoption of Senate substitute amendment 1:

Ayes, 8 -- Senators Van Sistine, Breske, Roshell,  
Plewa, Potter, Decker, Rude and Schultz;  
Noes, 0 -- None.

Passage as amended:

Ayes, 7 -- Senators Van Sistine, Breske, Roshell,  
Potter, Decker, Rude and Schultz;  
Noes, 1 -- Senator Plewa.

Jerome Van Sistine  
Chair

PETITIONS AND COMMUNICATIONS

State of Wisconsin

Department of Administration

February 20, 1992

To the Honorable the Legislature:

This report is transmitted as required by ss. 20.002(11)(f) of the Wisconsin Statutes, (for distribution to the appropriate standing committees under section 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 January, 1992.

On January 2, 1992, the Agrichemical Management Fund (Fund 59) balance was \$-45 thousand. This shortfall continued until January 10, 1992 when the

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balance reached \$ 486 thousand. The shortfall was due to the timing of revenues to the fund.

On January 15, 1992, the Petroleum Environmental Clean-up Fund (Fund 72) balance was \$-44 thousand. This shortfall continued until January 27, 1992 when the balance reached \$ 324 thousand. This shortfall was also due to the timing of revenues to the fund.

The Agrichemical Management Fund, and Petroleum Environmental Clean-up Fund shortfalls were not in excess of the \$400 million ceiling 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 State Finance will automatically reflect the use of these temporary reallocations of balance authority.

Sincerely,  
James R. Klauser  
Secretary

Referred to the committee on Housing, Government Operations and Cultural Affairs.

State of Wisconsin  
Legislative Council

February 25, 1992

To the Honorable the Legislature:

Enclosed is a copy of the 1991 Annual report on the Legislative Council Rules Clearinghouse, submitted to the Legislature pursuant to s. 227.15(5), Stats. Copies have been distributed to the offices of each member of the Legislature.

The Report covers the 11th full calendar year of operation of the Rules Clearinghouse. I trust that it will be found to be in formative.

Sincerely,  
David J. Stute  
Director

State of Wisconsin  
Claims Board

February 21, 1992

To the Honorable the Senate

Enclosed is the report of the State Claims Board covering claims heard on February 5, 1992.

The amounts recommended for payment under \$2000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$2,000, 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,  
EDWARD D. MAIN  
Secretary

STATE OF WISCONSIN  
CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on February 5, 1992, upon the following claims:

Claimant	Amount
Vernon Seay	12,142.83
Carol Nepton	2,298.00
Milwaukee County	27,749.00
Glacial Drumlin Horse Trail	17,165.00
Mark Mittelstadt	6,012.00
Mark Mittelstadt	16,700.00
James Cape and Sons Co.	113,654.00
Douglas Smith	2,080.12
Louis and Gloria Rap	8,557.48
Michael Koch	1,105.94
Charles Norman	8,566.46
John Wagner	3,307.60
Francis and Ruth Plyer	14,399.00

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

Comdisco Receivables, Inc.	3,560.00
Michael Genske	86.71
Gregory Kipfer	100.00
White Gold Trust	4,105.09
William Peters	414.40
Eleanore Baenen	237.30
James Paape, Jr.	135.47
Harold Peterson	540.62
David Wolf	850.00
Danny Meyers	5,677.01
Jeffrey Krueger	2,202.00
Orrin Beardsley	1,927.88
Myron Wiza	217.57
Daniel Webb	10.00
M. Thomas Edwards	701.00
Midwestern National Insurance	780.09
Alice Dalton	10.00
Raymond Harling	1,307.67
Barbara Marek	427.27
Lynn Decker	733.74
Hawkeye Insurance	1,190.49

THE BOARD FINDS:

1. Vernon Seay of Monona, Wisconsin, claims \$12,142.83 for the difference between wages earned and the amount he would have earned if his position had been reclassified to a Painter from October, 1987 through January 24, 1989. Claimant was haired as a Facilities Repair Worker (FRW) at the University of Wisconsin-

Madison Arlington Research Station on August 29, 1987. During the first five weeks of employment, claimant performed a variety of FRW duties including maintenance and repair work as well as painting. Subsequently, and continuing through January 24, 1989, claimant contends 80% of his time was devoted to painting. Claimant requested reclassification of his position from FRW to Painter which was denied by the Department of Employment Relations on September 13, 1989. Claimant appealed the decision to the State Personnel Commission which affirmed the Department of Employment Relations' decision. The Board agrees with the Personnel Commission and does not condone the procedures followed in an apparent effort to circumvent the civil service code, however, the Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. (Member Wineke dissenting).

2. Carol Nepton of Green Bay, Wisconsin, claims \$2,298.00 for replacement of a personal lap top computer allegedly stolen from her locked office at the University of Wisconsin-Green Bay on April 25, 1991. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

3. Milwaukee County of Milwaukee, Wisconsin claims \$27,749.00 for the cost of copying documents provided to public defender attorneys for indigent defendants in 1989 and 1990. In January, 1989, the Milwaukee County District Attorney's office began billing the Public Defender's Office for copying costs in pending criminal cases. The State Public Defender's office advised the County it was not responsible for the costs. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

4. Glacial Drumlin Horse Trail Association of Deerfield, Wisconsin, claims \$17,165.00 for labor, equipment and materials purchased for the construction of a horse trail between Cottage Grove and London, Wisconsin. In December, 1989, the Department of Natural Resources allowed claimant to begin work on the proposed horse trail prior to completion of feasibility evaluations and both parties signing a written contract. As the project progressed, issues were raised regarding costs, potential user conflicts and the need for a horse trail as well as environmental issues. In May, 1991, the Department of Natural Resources informed claimant the horse trail could not be constructed. The Board concludes the claim should be paid in the reduced amount of \$2,000.00, based on equitable principles. The

Board further concludes the claim should be paid from the Department of Natural Resources appropriation s. 20.370(1)(mu) Stats.

5. Mark Mittelstadt of Dodgeville, Wisconsin, claims \$6,012.00 for loss of timber brokerage commissions allegedly due to a dispute with a Department of Natural Resources (DNR) forester concerning whether or not a stand of timber was mature enough for a commercial harvest. In November, 1987, claimant was hired by Ralph Hovind to mark his property for timber harvest. Because Mr. Hovind's land was entered in the woodland tax law program, DNR concurrence was needed for a commercial timber harvest on the property. A DNR forester, Rudy Nigl, inspected the property and concluded that the timber should not be harvested as marked because it was immature. Claimant complained to the DNR about the conclusion. After a thorough examination, the DNR determined that the timber marked by claimant was proper and Mr. Hovind could proceed with the timber sale. Claimant contends Mr. Hovind did not rehire claimant for subsequent timber sales because of this incident. Mr. Hovind has signed a statement indicating he believed claimant acted appropriately in marking the trees, and the reason that he did not hire claimant for a subsequent timber sale had nothing to do with his qualifications or the earlier incident involving Mr. Nigl. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

6. Mark Mittelstadt of Dodgeville, Wisconsin, claims \$16,700.00 for loss of timber brokerage commissions allegedly resulting from a conversation between a Department of Natural Resources (DNR) forester and Richard Peck, who is a landowner in Sauk County. In February, 1988, claimant contends Richard Peck cancelled a contract with him after conversations with DNR forester Rick Livingston. Mr. Peck has signed a statement indicating that he does not recall any DNR person making disparaging statements about claimant. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

7. James Cape and Sons Company of Racine, Wisconsin, claims \$113,654.00, plus interest, for work performed during the course of a construction contract on Highway 29 with the Department of Transportation in 1990. The Department requested claimant to perform excavation below subgrade (EBS) after the rough grading operations were completed. Claimant contends supplemental specifications of the construction contract between the Company and the Department specified that EBS would be paid at a unit price of three times that for unclassified excavation. The contract unit price for common excavation/unclassified excavation is \$3/cubic

yard; therefore, claimant requests payment for EBS at \$9/cubic yard. The Department of Transportation contends the contract provision on which claimant relies is not applicable to extra work for the necessary subgrade stabilization on the main line that was beyond the scope of the work in the original contract. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Douglas Smith of Milwaukee, Wisconsin, claims \$2,080.12 for refund of income taxes, plus interest, assessed by the Department of Revenue in May, 1985. Claimant appealed the assessment to the Wisconsin Tax Appeals Commission. Prior to the hearing, claimant contacted the Department of Revenue to discuss the possibility of entering into a stipulation of facts. The Tax Appeals Commission hearing was scheduled on June 23, 1987, and the June 24, 1987. Claimant did not submit a proposed stipulation nor did he request a postponement of the hearing, assuming counsel for the Department of Revenue would advise the Commission of the proposed stipulation. The Commission dismissed claimant's petition for failure to appear at the hearing and claimant did not appeal this ruling and order. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

9. Louis and Cloria Rapp of Osceola, Wisconsin, claim \$8,557.48 for refund of income taxes collected by the Department of Revenue from April 26, 1989 through October 30, 1990, by garnishing his wages. Claimants failed to file tax returns for 1985 and 1986. In 1988, the Department of Revenue issued estimated assessments to claimants. On November 15, 1990, claimants filed income tax returns for 1985, 1986 and 1987. Because of the two-year statute of limitations, s. 71.75(5), Stats., the Department of Revenue is without authority to return any of the amount collected on the estimated assessment. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

10. Michael Koch of Tigerton, Wisconsin, claims \$1,105.94 for tax refunds withheld by the Department of Revenue and amounts garnished from his wages for an estimated tax assessment. Claimant failed to file tax returns from 1983 through 1986. In February, 1989, the Department of Revenue issued estimated assessments to claimant for that period. Claimant submitted a letter appealing the assessments on February 20, 1989. The Department of Revenue requested specific information regarding claimant's income and residency in order to resolve the matter. On April 24, 1989, the Department of Revenue denied claimant's appeal for failure to provide

requested information. On June 12, 1991, claimant provided evidence to the Department of Revenue indicating that he had no tax liability for the years 1983 through 1986. Because of the two-year statute of limitations, s. 71.75(5), Stats., the Department of Revenue is without authority to return any of the amount collected on the estimated assessment. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

11. Charles Norman of Muskego, Wisconsin, claims \$8,566.46 for income taxes assessed by the Department of Revenue on August 15, 1988 as a result of an audit of claimant's 1984 and 1985 tax returns. In February 1989, claimant filed an appeal of the assessment with the Wisconsin Tax Appeals Commission. On October 16, 1990, the Department of Revenue sent claimant a settlement stipulation. Claimant assumed that the hearing before the Tax Appeals Commission would be postponed while he considered the settlement. Claimant did not appear at the hearing on November 15, 1990 and the Commission dismissed claimant's petition. The Department of Revenue agreed to offer the settlement again if claimant petitioned for rehearing. There was no petition for rehearing.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

12. John Wagner of Bowler, Wisconsin, claims \$3,307.60 for refund of taxes, plus interest, assessed by the Department of Revenue for 1985 and 1986. Claimant objected to the assessment; however, in November, 1988, he paid \$7,500 to the Department of Revenue. In December 1990, claimant filed an amended 1986 tax return. On July 29, 1991, the Department of Revenue adjusted claimant's account indicating an overpayment of \$2,465.80. Because of the two-year statute of limitations, s. 71.74(5), Stats., the Department of Revenue is without authority to return any of the amount collected on the estimated assessment. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

13. Francis and Ruth Plyer of Milwaukee, Wisconsin, claim \$14,399.00 for refund of income taxes assessed by the Department of Revenue in February 1988 for failure to file 1985 and 1986 tax returns. After retirement, claimants were uncertain how to report pension and social security income and did not complete tax returns. In July, 1988, Francis Plyer signed an installment agreement based on the Department of Revenue's estimated assessment. From July through November, 1988, claimant paid \$5,000 toward the

assessment. In November 1989, the Department of Revenue garnished claimant's savings account. On July 29, 1991, the Department of Revenue received claimants' 1985 and 1986 tax returns which indicated, had the returns been timely filed, a refund would have been due. Because of the two-year statute of limitations, s. 71.75(5), Stats., the Department of Revenue is without authority to return any of the amount collected on the estimated assessment. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

14. Comdisco Receivables, Inc. of Rosemont, Illinois, claims \$3,560.00 overpayment to the Secretary of State's Office due to an error on claimant's 1991 application for Certificate of Authority. On April 1, 1991, claimant filed a Wisconsin application for Certificate of Authority with the Secretary of State's office and paid a fee of \$3,600.00 based on information set forth in their application, indicating a capital representation in this state of \$1,840,000. On June 26, 1991, claimant filed Articles of Correction with the Secretary of State's office indicating that their application was in error and that the paid-in capital represented in Wisconsin should have been only \$0.46. The fee on this corrected amount would have been \$100. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

15. Michael Genske of Oconomowoc, Wisconsin, claims \$86.71 for expenses allegedly resulting from the Department of Transportation's failure to update his driving record from suspended to valid status. When claimant was stopped for speeding on August 10, 1991, his driving record displayed suspended status and the police officer required towing of claimant's vehicle. The incident occurred on Saturday and claimant's vehicle was stored for two days until he could provide evidence that his license had been reinstated. On April 5, 1991, claimant's driving privileges had been suspended for 60 days by the Hartland Municipal Court. On June 5, 1991, claimant's driving privileges were reinstated but due to an error by the Department of Transportation, termination of the suspension was not entered on his computer record. The Board concludes the claim should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Transportation appropriation s. 20.395(5)(cq), Stats.

16. Gregory Kipfer of Madison, Wisconsin, claims \$100.00 for uninsured damages to his vehicle allegedly incurred on September 10, 1991, while traveling on state business as an employe of the Department of Justice. Claimant's vehicle ran over a 6x6 wooden block about one foot long on Highway 151 near Beaver Dam,

Wisconsin. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles. (Member Wilker not participating).

17. White Gold Trust of Luxemburg, Wisconsin claims \$4,105.09 for loss of income as a result of the bankruptcy of Kasson, Inc. in 1989. Claimant contends the Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for the loss because of its regulation of Kasson, Inc., under the dairy plant security law. When DATCP called for Kasson's security in 1989, the company did not comply; it went bankrupt. The Board recommends payment of \$2,052.55, one-half of the claimed amount determined to be accurate as a result of an audit by DATCP, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Claims Board appropriation s. 20.505(4)(d), Stats.

18. William Peters of Milwaukee, Wisconsin claims \$414.40 for uninsured damages to his automobile allegedly caused by the parking gate at the Milwaukee State Office Building on December 9, 1991. The gate arm came down on top of claimant's vehicle as he was driving out of the parking lot. The Board concludes the claim should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Claims Board appropriation s. 20.505(4)(d), Stats. should be made from the Department of Administration appropriation s. 20.505(5)(ka), Stats.

19. Eleanore Baenen of Green Bay, Wisconsin, claims \$237.30 for damages to her vehicle allegedly incurred on June 25, 1991, while it was parked at the Green Bay Correctional Institution. The damage was allegedly caused by a rock thrown from a lawn mower a man was using to cut grass at the Institution. It appears that claimant has full insurance coverage for this type of damage.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

20. James Paape, Jr. of Green Bay, Wisconsin, claims \$135.47 for damages to his motorcycle allegedly incurred on July 26, 1991, while it was parked in the designated area in front of the main entrance of the Department of Corrections Green Bay Correctional Center, where claimant is employed. There is no evidence of how the damage actually occurred. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

21. Harold Peterson of Eau Claire, Wisconsin, claims \$540.62 for the cost of repairing his boat trailer and hitch in Bayfield County on June 11, 1991. Claimant alleges the damage occurred when he backed down the concrete ramp and his boat trailer fell into a large hole. Section 895.52, Wis. Stats., provides that the state has no liability to persons engaged in recreational activities such as boating on state property. 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 not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

22. David Wolf of West Salem, Wisconsin claims \$850.00 for loss of a beef cow which was struck by a train on November 14, 1990. The cow broke through a fence between the feed lot operated by claimant and the La Crosse River State Trail. The cow apparently crossed the trail and went onto the railroad tracks where it was struck by the train. The fence between the two properties was built by the railroad prior to the time that the right-of-way was purchased by the Department of Natural Resources. As a result, the Department of Natural Resources does not have a written agreement with claimant regarding maintenance of the fence. The Board concludes the claim should be paid in the reduced amount of \$750.00, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Natural Resources appropriation s. 20.370(1)(mu), Stats.

23. Danny Meyers of Rice Lake, Wisconsin, claims \$5,677.01 for medical expenses and lost wages allegedly resulting from an injury he sustained when he hit a cable stretched between two trees while he was snowmobiling in the Town of Bear Lake in Barron County on February 24, 1991. The accident did not occur on state-owned land. 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 not one for which the state is legally liable nor one which the state should assume and pay on equitable principles.

24. Jeffrey Krueger of St. Croix Falls Wisconsin, claims \$2,202.00 for a relocation incentive award allegedly promised by the Department of Natural Resources in May, 1991. if he accepted the position of park superintendent at the Interstate Park in St. Croix Falls. Claimant was formerly the park superintendent at High Cliff State Park. Claimant accepted the new position with with the understanding that he would receive a relocation incentive as well as moving expenses. After claimant relocated, the Department of Natural Resources determined he was not eligible for the relocation award because the job change involved a voluntary demotion, rather than a transfer or promotion. The Board concludes the claim should be paid in the reduced amount of \$2,000.00 based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be

made by the Department of Natural Resources appropriation s. 20.370(1)(mu), Stats.

25. Orrin Beardsley of Milwaukee, Wisconsin, claims \$1,927.88 for 1984, 1988, 1989, and 1990 tax refunds withheld by the Department of Revenue for a tax delinquency. Claimant failed to file tax returns for 1978 and 1979 and the Department of Revenue issued estimated tax assessments in 1983. In April 1991, claimant filed income tax returns for the years 1978 and 1979, indicating no taxable income for three years. Because of the two-year statute of limitations, s. 71.75(5), Stats., the Department of Revenue is without authority to return any of the amount collected on the estimated assessment. 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 not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

26. Myron Wiza of Hixton, Wisconsin, claims \$217.57 for reissuance of a check dated May 29, 1979. Section 16.007(6)(b) 1, Stats., provides authority for reissuing outdated checks. To reissue a check, the Board requests verification from the State Treasury that the money is still in the cancelled draft fund. Recently, the State Treasury amended its retention period for checks to ten years. Therefore, the State Treasury can no longer verify the status of checks dated prior to 1980. The Board concludes, as an advisory opinion, that the claim in the amount of \$217.57 should be paid under the provisions of s. 16.007(6)(b) 1, Stats., if claimant will sign an affidavit verifying the outdated check was never cashed.

27. Daniel Webb of Kenosha, Wisconsin, claims \$10.00 for bank fees incurred when the Department of Revenue lost his check. In April 1991, claimant mailed a check in the amount of \$104.90 to the Department of Revenue. The Department of Revenue received and deposited the check on April 16, 1991. However, on August 27, 1991, the Department of Revenue advised claimant that the check had been lost by its depository bank. Claimant requested his bank to stop payment on the original check so that he could send a new check to the Department of Revenue. The Board concludes the claim should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Claims Board appropriation s. 20.505(4)(d), Stats.

28. M. Thomas Edwards of Eau Claire, Wisconsin, claims \$701.00 for refund of sales tax paid on a boat in May, 1991. Claimant returned the boat to the dealer under the "Lemon Law," s. 218.015(2)(f), Stats. The manufacturer refunded the purchase price of the boat excluding sales tax. The Department of Revenue is unable to refund the sales tax because the "Lemon Law" only applies to motor vehicles. The Board concludes the claim should be paid based on equitable principles. The Board further concludes, under authority of s.



16.007(6m), Stats., payment should be made from the Claims Board appropriation s. 20.505(4)(d), Stats.

29. Midwestern National Insurance Corporation of La Crosse, Wisconsin, claims \$680.09 subrogation damages and \$100 for the deductible amount paid by its insured, Karen Harris, for damage allegedly incurred on January 17, 1991. The insured's vehicle was allegedly damaged by snow falling from the roof of a building at the Southern Wisconsin Center. The board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

30. Alice Dalton of Kaukauna, Wisconsin, claims \$10.00 as the amount allegedly stolen from her purse on April 11, 1991, while she was conducting an inspection of a nursing home as part of her duties as an employe of the Department of Health & Social Services. While conduction interviews with the residents, claimant stored her belongings in an unlocked room assigned to her by the nursing home administrator. The Board concludes the claim should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health & Social Services appropriation s. 20.435(1)(a), Stats.

31. Raymond Harling of Chippewa Falls, Wisconsin, claims \$1,307.67 for vehicle damages allegedly incurred on April 22, 1991, while the vehicle was parked at the Northern Wisconsin Center, where he is employed. Another employe of the Center observed a resident causing damage to claimant's vehicle. It appears that the claimant has full insurance coverage for this type of damage. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employers and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

32. Barbara Marek of Chippewa Falls, Wisconsin, claims \$427.77 for vehicle damages incurred on April 22, 1991, while the vehicle was parked at the Northern Wisconsin Center, where she is employed. Another employe observed a resident of the Center damaging vehicles. It appears that the claimant has full insurance coverage for this type of damage. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

33. Lynn Decker of Eau Claire, Wisconsin, claims \$733.74 for vehicle damages allegedly caused by a resident of the Northern Wisconsin Center on June 19, 1991, while the vehicle was parked at the Center. All bu \$50 of the damages were paid by claimant's insurance company. The Board concludes the claim should be paid

in the reduced amount of \$50.00, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(2)(gk), Stats.

34. Hawkeye Insurance Company of Kenosha, Wisconsin, claims \$1,190.49 for damages to its insured's vehicle allegedly caused by juveniles on escape status from the Ethan Allen School on February 26, 1991. The Juveniles broke into the insured's locked vehicle which was parked in the school parking lot. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

**THE BOARD CONCLUDES:**

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

Vernon Seay	Comdisco Receivables, Inc.
Carol Nepton	Gregory Kipfer
Milwaukee County	Eleanore Baenen
Mark Mittelstadt(2)	James Paape, Jr.
James Cape and Sons Co.	Harold Peterson
Doglas Smith	Danny Meyers
Louis and Gloria Rapp	Orrin Beardsley
Michael Koch	Midwestern National Insurance
Charles Norman	Raymond Harling
John Wagner	Barbara Marek
Francis and Ruth Plyer	Hawkeye Insurance

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

Glacial Drumlin Horse Trail Assn.	\$2,000.00
Michael Genske	\$86.71
William Peters	\$414.00
David Wolf	\$750.00
Jeffrey Krueger	\$2,000.00
Myron Wiza	\$217.57
Daniel Webb	\$10.00
M. Thomas Edwards	\$701.00
Alice Dalton	\$10.00
Lynn Decker	\$50.00

**THE BOARD RECOMMENDS:**

Payment of \$2,052.55 to White Gold Trust for loss of income in connection with the bankruptcy of Kasson, Inc., in 1989. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Claims Board appropriation s. 20.505(4)(d), Stats.

Dated at Madison, Wisconsin this 19th day of February, 1992.

GARY R. GEORGE  
Senate Finance Committee

JOSEPH WINEKE  
Assembly Finance Committee

CHARLES B. HOSLET  
Representative of Governor

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EDWARD D. MAIN  
Representative of Secretary of  
Administration

WILLIAM H. WILKER  
Representative of Attorney  
General

State of Wisconsin  
Legislative Audit Bureau

February 25, 1992

To the Honorable the Legislature:

We have completed an evaluation of the Children At Risk program, as required by s. 118.153(6), Wis. Stats. The program, created by the Legislature in 1985, is intended to increase the number of students attaining high school diplomas by improving services provided to pupils at risk of failing in, or dropping out of, school. The program was appropriated \$3.5 million for fiscal year 1991-92 and is administered by the Department of Public Instruction.

A review of various performance indicators brings into question the progress the State has made toward achieving the program's goals. For example, the rate at which students statewide graduate from high school declined from 84.6 percent in Spring 1986 to 82.4 percent in Spring 1991.

Opinions differ on the extent to which the Children At Risk program could have been expected to influence overall graduation and dropout rates. However, we question whether the program has contributed materially to state and school district efforts to provide effective services to at-risk students. Districts must meet burdensome and complicated reporting requirements as a condition of receiving funds, and staff and data limitations have constrained department efforts to offer the extent of technical assistance many believe is needed. The program's funding criteria also do not appear to promote achievement of the program's overall objectives.

The Legislature has several options for addressing these problems, including: 1) significantly changing the existing program; 2) eliminating the program's funding and using the funds for other purposes, such as supplementing the many other state and federally funded programs serving at-risk pupils; and 3) increasing the extent of technical assistance offered by the Department.

We appreciate the courtesy and cooperation extended to us by the department staff and staff from the several school districts we contacted. The Department of Public Instruction's response is Appendix II.

Sincerely,  
Dale Cattanach  
State Auditor

EXECUTIVE COMMUNICATIONS

State of Wisconsin  
Office of the Governor

February 14, 1992

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint L. DUANE WEED of Necedah, as a member of the Wisconsin Housing and Economic Development Authority pursuant to the statute governing, to serve for the interim term ending January 1, 1994.

Respectfully,

Tommy Thompson  
Governor

Read and referred to committee on Education, Economic Development, Financial Institutions and Fiscal Policies.

Senator Helbach, with unanimous consent, asked that the appointment of Lawrence J. Kenny be referred to the committee on Senate Rules.

Senator Helbach, with unanimous consent, asked that the appointments be taken up en masse.

CALENDAR OF FEBRUARY 27, 1992

BLOOMBERG, KATHRYN, of Brookfield, as a member of the Regional Transportation Authority, to serve for the term ending December 11, 1994.

Read.

BOLDEN, JOHN R., of Milwaukee, as a member of the Regional Transportation Authority, to serve for the term ending December 11, 1994.

Read.

BUESTRIN, THOMAS H., of Mequon, as a member of the Regional Transportation Authority, to serve for the term ending December 11, 1994.

Read.

HUELSMAN, A. WILLIAM, of Waukesha, as a member of the Regional Transportation Authority, to serve for the term ending December 11, 1994.

Read.

IBARRA, DAGOBERTO, of Milwaukee, as a member of the Public Defender Board, to serve for the term ending May 1, 1995.

Read.

McCRORY, MARC, of Janesville, as a member of the Public Defender Board, to serve for the term ending May 1, 1995.

Read.

NESHEK, MILTON E., of Elkhorn, as a member of the Regional Transportation Authority, to serve for the term ending December 11, 1994.

Read.

PRINCIPE, LOUISE, of Kenosha, as a member of the Regional Transportation Authority, to serve for the term ending December 11, 1994.

Read.

The question was: Confirmation?

The ayes and noes were required and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, Feingold, George, Helbach, Huelsman, Jauch, Lasee, Leraan, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Stitt, Ulichny, Van Sistine and Weeden — 33.

Noes — None.

Absent or not voting — None.

Confirmed.

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#### SENATE CLEARINGHOUSE ORDERS

The committee on Tourism, Commerce, Labor, Veterans' and Military Affairs reports and recommends:

**Senate Clearinghouse Rule 91-105**

Relating to soil and site characteristics for design and placement of various components of private sewage systems.

No action taken.

Jerome Van Sistine  
Chair

The committee on Urban Affairs, Environmental Resources and Elections reports and recommends:

**Senate Clearinghouse Rule 91-81**

Relating to municipal solid waste combustor residue management.

No action taken.

Brian Burke  
Chair

**Senate Clearinghouse Rule 91-35**

Relating to hospices.

Submitted by Department of Health and Social Services.

Report received from agency, February 26, 1992.

Referred to committee on Agriculture, Corrections, Health and Human Services, February 27, 1992.

State of Wisconsin  
Revisor of Statutes Bureau

March 1, 1992

To the Honorable the Legislature:

The following rules have been published and are effective:

Clearinghouse Rule 89-180 effective March 1, 1992.

Clearinghouse Rule 89-181 effective March 1, 1992.

Clearinghouse Rule 90-190 effective March 1, 1992.

Clearinghouse Rule 91- 28 effective March 1, 1992.

Clearinghouse Rule 91- 38 effective March 1, 1992.

Clearinghouse Rule 91- 83 effective March 1, 1992.

Clearinghouse Rule 91-108 effective March 1, 1992.

Clearinghouse Rule 91-129 effective March 1, 1992.

Clearinghouse Rule 91-138 effective March 1, 1992.

Clearinghouse Rule 91-156 effective March 1, 1992.

Clearinghouse Rule 91-159 effective March 1, 1992.

Sincerely,

GARY L. POULSON

Deputy Revisor

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#### MESSAGE FROM THE ASSEMBLY

By Thomas T. Melvin, chief clerk.

Mr. President:

I am directed to inform you that the Assembly has adopted and asks concurrence in:

**Assembly Joint Resolution 116**

**Assembly Joint Resolution 114**

Passed and asks concurrence in:

**Assembly Bill 546**

**Assembly Bill 567**

**Assembly Bill 664**

**Assembly Bill 203**

Concurred in:

**Assembly Joint Resolution 105**, Senate amendment 1

**Assembly Bill 101**, Senate amendment 1

**Assembly Bill 289**, Senate amendment 1

**Assembly Bill 379**, Senate amendment 1

**Assembly Bill 524**, Senate amendment 1

**Assembly Bill 573**, Senate amendment 1

Amended and concurred in as amended:

**Senate Bill 15**, Assembly amendments 1 and 2

**Senate Bill 342**, Assembly amendment 1

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#### MESSAGE FROM THE ASSEMBLY CONSIDERED

**Assembly Joint Resolution 116**

Relating to the life and public service of Kenneth Kunde.

By Representatives Baumgart and Turba, cosponsored by Senator Potter.

Read.

Considered as privileged and taken up.

Concurred in by unanimous rising vote.

**Assembly Joint Resolution 114**

Relating to designating the month of February as Wisconsin Children's Dental Health Month.

By Representatives Prosser, Notestein, Young and Rosenzweig.

Read and referred to committee on Agriculture, Corrections, Health and Human Services.

**Assembly Bill 546**

Relating to grants and loans from the Wisconsin development fund to small businesses and granting rule-making authority.

By Representatives Van Dreel, Reynolds, Zweck, Hahn, S. Coggs, Hisrich, Black, Rohan, Gruszynski, Robson, Fortis, Notestein, Musser, Baldus, Plache, Gronemus, Hamilton and Schwartz, cosponsored by Senator Breske.

Read first time and referred to committee on Education, Economic Development, Financial Institutions and Fiscal Policies.

**Assembly Bill 567**

Relating to pupils' right to freedom of expression in public schools.

By Representatives Bock, Plache, Fortis, Medinger, Duff, Notestein, Lorge, Darling, Carpenter, Radtke, Potter, Hisrich, Loucks and Seery, cosponsored by Senators Adelman, Chvala, Barrett, Feingold and Risser.

Read first time and referred to committee on Judiciary and Consumer Affairs.

**Assembly Bill 664**

Relating to creating certification for certain emergency medical services personnel to perform defibrillation and granting rule-making authority.

By Representatives Boyle, Stower, Robson, Turner, Hisrich, Lehman, Hahn, Krug, Huber, Musser, Lautenschlager, Young, Ourada, Moore, Fortis, Hough, Hamilton, Urban, Porter, Radtke, Rosenzweig and Van Gorden, cosponsored by Senators Berndt, Buettner and Petak.

Read first time and referred to committee on Agriculture, Corrections, Health and Human Services.

**Assembly Bill 203**

Relating to creating new standards for involuntary civil commitments and emergency detentions.

By Representatives Medinger, Rosenzweig, Panzer, Bock, Goetsch, Grobschmidt, Gronemus, Swoboda, Welch, Radtke, Urban, Deininger, Hasenohrl, Stower, Hamilton, Vanderperren, Roberts, Darling, Lehman, Ourada, Brancel, Ladwig, Silbaugh, Duff, Bolle, Vergeront, Brandmuehl, Van Gorden, Wimmer, Vrakas, Musser, Zien, Klusman, Holschbach, Huber, Zweck, Johnsrud and Lautenschlager, cosponsored by Senators Rude, Plewa, Weeden, Andrea, Breske, Kreul, Buettner, Stitt, Berndt and Huelsman.

Read first time and referred to committee on Judiciary and Consumer Affairs.

Senator Helbach, with unanimous consent, asked that **Assembly Bill 203** be withdrawn from committee on Judiciary and Consumer Affairs and be referred to committee on Senate Organization.

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CALENDAR OF FEBRUARY 27, 1992

**Senate Bill 15**

Relating to customer identification on checks or charge slips.

Read.

The question was: Concurrence of Assembly amendment 1?

Concurred in.

The question was: Concurrence of Assembly amendment 2?

Concurred in.

**Senate Bill 342**

Relating to administrative joint tenancy and life estate termination for certain property.

Read.

The question was: Concurrence of Assembly amendment 1?

Concurred in.

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SECOND READING AND AMENDMENTS  
OF SENATE JOINT RESOLUTIONS AND  
SENATE BILLS

**Senate Joint Resolution 66**

Relating to memorializing Congress to support and enact legislation providing federal assistance to the Marquette university neighborhood partnership program, also known as the Marquette plan.

Read.

Senator Burke, with unanimous consent, asked that Senator Farrow be made a co-author of **Senate Joint Resolution 66**.

The question was: Adoption of Senate substitute amendment 1?

Adopted.

The question was: Adoption of the joint resolution?

Adopted.

**Senate Joint Resolution 73**

Relating to distinguishing the state lottery from prohibited gambling, defining 'lottery', and removing from the gambling section of the constitution the prohibition of individual divorce grants by the legislature (first consideration).

Read a second time.

Senator Barrett, with unanimous consent, asked that he be made a co-author of **Senate Joint Resolution 73**.

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Senator Buettner, with unanimous consent, asked that she be made a co-author of **Senate Joint Resolution 73**.

Senator Petak, with unanimous consent, asked that he be made a co-author of **Senate Joint Resolution 73**.

Senator Leean, with unanimous consent, asked that he be made a co-author of **Senate Joint Resolution 73**.

Ordered to a third reading.

Senator Helbach, with unanimous consent, asked that the joint resolution be considered for final action at this time.

**Senate Joint Resolution 73**

Read a third time.

The ayes and noes were required and the vote was: ayes, 27; noes, 6; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Barrett, Berndt, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, Feingold, George, Helbach, Huelsman, Lasee, Leean, Lorman, Moen, Petak, Plewa, Potter, Risser, Schultz, Stitt, Ulichny and Weeden — 27.

Noes — Senators Andrea, Breske, Jauch, Roshell, Rude and Van Sistine — 6.

Absent or not voting — None.

Adopted.

Senator Helbach, with unanimous consent, asked that all action be ordered immediately messaged.

Senator Helbach, with unanimous consent, asked that the Senate recess until 4:00 P.M..

2:43 P.M.

RECESS

4:00 P.M.

The Senate reconvened.

QUORUM CALL

Senator Helbach called the attention of the Chair to the possible lack of a quorum.

The roll was called and the following Senators answered to their names:

Present — Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, Feingold, George, Helbach, Huelsman, Jauch, Lasee, Leean, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Stitt, Ulichny, Van Sistine and Weeden — 33.

Absent — None.

Absent with leave — None.

Senator Helbach, with unanimous consent, asked that the appointment of Lawrence J. Kenny be withdrawn from committee on Senate Rules and taken up.

KENNY, LAWRENCE J., of Milwaukee, as a member of the Regional Transportation Authority, to serve for the term ending December 11, 1994.

Read.

The question was: Confirmation?

The ayes and noes were required and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, Feingold, George, Helbach, Huelsman, Jauch, Lasee, Leean, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Stitt, Ulichny, Van Sistine and Weeden — 33.

Noes — None.

Absent or not voting — None.

Confirmed.

**Senate Joint Resolution 75**

Relating to the life and public service of Joyce Erdman.

Read.

Senator Helbach, with unanimous consent, asked that all the members of the Senate be listed as co-authors of **Senate Joint Resolution 75**.

The question was: Adoption of the joint resolution?

Adopted.

**Senate Joint Resolution 76**

Relating to congratulating Morris Andrews on his extraordinary accomplishments.

Read.

Senator Lasee, with unanimous consent, asked that he be removed as a co-author of **Senate Joint Resolution 76**.

The question was: Adoption of the joint resolution?

The ayes and noes were demanded and the vote was: ayes, 31; noes, 2; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, Feingold, George, Helbach, Huelsman, Jauch, Leean, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Ulichny, Van Sistine and Weeden — 31.

Noes — Senators Lasee and Stitt — 2.

Absent or not voting — None.

Adopted.

**Senate Bill 324**

Relating to adolescent pregnancy prevention, school district instruction in human growth and development, medical assistance services and making appropriations.

Read a second time.

The question was: Adoption of Senate amendment 1?

Senator George, with unanimous consent, asked that **Senate Bill 324** be referred to joint committee on Finance.

**Senate Bill 348**

Relating to exempting certain single-family owner-occupied residences from the state fair housing law.

Read a second time.

The question was: Adoption of Senate amendment 1? Adopted.

Senate amendment 2 to **Senate Bill 348** offered by Senators Adelman and Plewa.

The question was: Adoption of Senate amendment 2? Adopted.

Ordered to a third reading.

Senator Helbach, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 348**

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 32; noes, 1; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, Feingold, Helbach, Huelsman, Jauch, Lasee, Lekan, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Stitt, Ulichny, Van Sistine and Weeden — 32.

Noes — Senator George — 1.

Absent or not voting — None.

Passed.

**Senate Bill 402**

Relating to placing criminal defendants with volunteers in probation programs.

Read a second time.

The question was: Adoption of Senate substitute amendment 1?

Adopted.

Ordered to a third reading.

Senator Helbach, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 402**

Read a third time and passed.

**Senate Bill 467**

Relating to payments to local governments for certain services provided to state facilities and making an appropriation.

Read a second time.

Senator George, with unanimous consent, asked that **Senate Bill 467** be referred to joint committee on Finance.

**Senate Bill 474**

Relating to ozone-depleting substances, granting rule-making authority, providing an exemption from emergency rule procedures, providing penalties and making an appropriation.

Read a second time.

The question was: Adoption of Senate substitute amendment 1?

Senator George, with unanimous consent, asked that **Senate Bill 474** be referred to joint committee on Finance.

SECOND READING AND AMENDMENTS  
OF ASSEMBLY JOINT RESOLUTIONS AND  
ASSEMBLY BILLS

**Assembly Joint Resolution 108**

Relating to commending Ken Keltner.

Read.

Senator Czarnecki, with unanimous consent, asked that he be listed as a co-sponsor of **Assembly Joint Resolution 108**.

The question was: Concurrence of the joint resolution?

Concurred in.

**Assembly Bill 427**

Relating to mandatory coverage of newborn children by all disability insurance policies.

Read a second time.

Ordered to a third reading.

Senator Helbach, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 427**

Read a third time and concurred in.

**Assembly Bill 432**

Relating to permitting certain hospitals to provide staff privileges to certain psychologists.

Read a second time.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 432**

Read a third time and concurred in.

**Assembly Bill 435**

Relating to disclosure of defects in residences before transfer.

Read a second time.

The question was: Adoption of Senate amendment 1? Adopted.

Ordered to a third reading.

Senator Chvala, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 435**

Read a third time and concurred in as amended.

**Assembly Bill 590**

Relating to a state energy policy and granting rule-making authority.

Read a second time.

The question was: Adoption of Senate substitute amendment 1?

Senator George, with unanimous consent, asked that **Assembly Bill 590** be referred to the joint committee on Finance.

Senator George, with unanimous consent, asked that **Assembly Bill 590** be withdrawn from the joint committee on Finance and taken up.

Read a second time.

The question was: Adoption of Senate substitute amendment 1?

Adopted.

Ordered to a third reading.

Senator Helbach, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 590**

Read a third time.

The ayes and noes were required and the vote was: ayes, 32; noes, 0; absent or not voting, 1; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Decker, Ellis, Farrow, Feingold, George, Helbach, Huelsman, Jauch, Lasee, Lekan, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Stitt, Ulichny, Van Sistine and Weeden — 32.

Noes — None.

Absent or not voting — Senator Czarnetzki — 1.

Concurred in as amended.

Senator Helbach, with unanimous consent, asked that **Assembly Bill 655** be placed after **Assembly Bill 679**.

Senator Helbach, with unanimous consent, asked that **Assembly Bill 679** be referred to committee on Senate Rules.

Senator Helbach, with unanimous consent, asked that all action be ordered immediately messaged.

Senator Roshell, with unanimous consent, asked that the Senate recess until 5:00 P.M..

RECESS

5:00 P.M.

The Senate reconvened.

**Assembly Bill 655**

Relating to establishing a group health insurance plan for employes of small employers, creating a board to oversee the plan, creating a fund for catastrophic claims and a catastrophic claims fund board, creating an individual income tax deduction for certain medical care insurance costs paid by certain self-employed persons, granting rule-making authority and making an appropriation.

Read a second time.

Senate amendment 1 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senator Jauch.

The question was: Adoption of Senate amendment 1 to Senate substitute amendment 1?

Senator Van Sistine moved that Senate amendment 1 to Senate substitute amendment 1 be laid on the table.

The question was: Shall Senate amendment 1 to Senate substitute amendment 1 be laid on the table?

The ayes and noes were demanded and the vote was: ayes, 24; noes, 9; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Barrett, Berndt, Buettner, Burke, Chvala, Cowles, Czarnetzki, Ellis, Farrow, George, Helbach, Huelsman, Lekan, Lorman, Moen, Petak, Plewa, Potter, Roshell, Stitt, Ulichny, Van Sistine and Weeden — 24.

Noes — Senators Adelman, Breske, Decker, Feingold, Jauch, Lasee, Risser, Rude and Schultz — 9.

Absent or not voting — None.

Tabled.

Senate amendment 2 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Rude, Van Sistine and Schultz.

The question was: Adoption of Senate amendment 2 to Senate substitute amendment 1?

Adopted.

Senate amendments 3 and 4 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Van Sistine and Rude.

The question was: Adoption of Senate amendment 3 to Senate substitute amendment 1?

Senator Van Sistine moved that Senate amendment 3 to Senate substitute amendment 1 be laid on the table.

4:29 P.M.

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The question was: Shall Senate amendment 3 to Senate substitute amendment 1 be laid on the table?

The ayes and noes were demanded and the vote was: ayes, 15; noes, 17; absent or not voting, 1; as follows:

Ayes — Senators Burke, Czarnezki, Ellis, Farrow, George, Helbach, Lasee, Lekan, Moen, Plewa, Potter, Roshell, Stitt, Ulichny and Van Sistine — 15.

Noes — Senators Adelman, Barrett, Berndt, Breske, Buettner, Chvala, Cowles, Decker, Feingold, Huelsman, Jauch, Lorman, Petak, Risser, Rude, Schultz and Weeden — 17.

Absent or not voting — Senator Andrea — 1.

Refused to lay on table.

The question was: Adoption of Senate amendment 3 to Senate substitute amendment 1?

The ayes and noes were demanded and the vote was: ayes, 18; noes, 15; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Barrett, Berndt, Breske, Buettner, Chvala, Cowles, Decker, Feingold, Huelsman, Jauch, Lasee, Lorman, Petak, Risser, Rude, Schultz and Weeden — 18.

Noes — Senators Andrea, Burke, Czarnezki, Ellis, Farrow, George, Helbach, Lekan, Moen, Plewa, Potter, Roshell, Stitt, Ulichny and Van Sistine — 15.

Absent or not voting — None.

Adopted.

The question was: Adoption of Senate amendment 4 to Senate substitute amendment 1?

Senator Van Sistine moved that Senate amendment 4 to Senate substitute amendment 1 be laid on the table.

The question was: Shall Senate amendment 4 to Senate substitute amendment 1 be laid on the table?

Tabled.

Senate amendment 5 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Rude and Schultz.

The question was: Adoption of Senate amendment 5 to Senate substitute amendment 1?

Adopted.

Senate amendment 6 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Rude, Stitt, Schultz and Berndt.

The question was: Adoption of Senate amendment 6 to Senate substitute amendment 1?

Senator Van Sistine moved that Senate amendment 6 to Senate substitute amendment 1 be laid on the table.

The question was: Shall Senate amendment 6 to Senate substitute amendment 1 be laid on the table?

The ayes and noes were demanded and the vote was: ayes, 14; noes, 19; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Barrett, Burke, Chvala, Czarnezki, Feingold, George, Helbach, Huelsman, Moen, Plewa, Roshell, Ulichny and Van Sistine — 14.

Noes — Senators Adelman, Berndt, Breske, Buettner, Cowles, Decker, Ellis, Farrow, Jauch, Lasee, Lekan, Lorman, Petak, Potter, Risser, Rude, Schultz, Stitt and Weeden — 19.

Absent or not voting — None.

Refused to lay on table.

The question was: Adoption of Senate amendment 6 to Senate substitute amendment 1?

Adopted.

Senate amendment 7 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Rude, Berndt, Lorman, Cowles, Schultz, Huelsman, Farrow, Petak, Weeden and Buettner.

Senate amendment 1 to Senate amendment 7 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senator Barrett.

Senator Lekan, with unanimous consent, asked that Senate amendment 1 to Senate substitute amendment 1 to **Assembly Bill 655** be withdrawn from the table.

Senator Van Sistine objected.

Senator Lekan moved that Senate amendment 1 to Senate substitute amendment 1 to **Assembly Bill 655** be withdrawn from the table.

The question was: Shall Senate amendment 1 to Senate substitute amendment 1 to **Assembly Bill 655** be withdrawn from the table?

The ayes and noes were demanded and the vote was: ayes, 15; noes, 18; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Breske, Cowles, Decker, Ellis, Feingold, Jauch, Lasee, Lekan, Lorman, Petak, Risser, Rude, Schultz and Stitt — 15.

Noes — Senators Andrea, Barrett, Berndt, Buettner, Burke, Chvala, Czarnezki, Farrow, George, Helbach, Huelsman, Moen, Plewa, Potter, Roshell, Ulichny, Van Sistine and Weeden — 18.

Absent or not voting — None.

Withdrawal from the table refused.

The question was: Adoption of Senate amendment 1 to Senate amendment 7 to Senate substitute amendment 1?



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Senator Buettner moved rejection of Senate amendment 1 to Senate amendment 7 to Senate substitute amendment 1.

The question was: Rejection of Senate amendment 1 to Senate amendment 7 to Senate substitute amendment 1?

Senator Farrow raised the point of order that Senate amendment 1 to Senate amendment 7 to Senate substitute amendment 1 was not germane.

The Chair ruled the point well taken.

The question was: Adoption of Senate amendment 7 to Senate substitute amendment 1?

Senator Barrett raised the point of order that Senate amendment 7 to Senate substitute amendment 1 is not germane.

The Chair ruled the point well taken.

Senator Berndt appeals the ruling of the Chair.

The question was: Shall the ruling of the Chair stand as the judgment of the Senate?

The ayes and noes were required and the vote was: ayes, 19; noes, 14; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Breske, Burke, Chvala, Czarnecki, Decker, Feingold, George, Helbach, Jauch, Moen, Plewa, Potter, Risser, Roshell, Ulichny and Van Sistine — 19.

Noes — Senators Berndt, Buettner, Cowles, Ellis, Farrow, Huelsman, Lasee, Llean, Lorman, Petak, Rude, Schultz, Stitt and Weeden — 14.

Absent or not voting — None.

The ruling of the Chair stands as the judgment of the Senate.

Senate amendment 8 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Barrett and Decker.

The question was: Adoption of Senate amendment 8 to Senate substitute amendment 1?

Senator Van Sistine moved rejection of Senate amendment 8 to Senate substitute amendment 1.

The question was: Rejection of Senate amendment 8 to Senate substitute amendment 1?

Rejected.

Senate amendment 9 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Decker, Feingold, Barrett, Potter, Lorman, Chvala, Breske, Llean and Roshell.

The question was: Adoption of Senate amendment 9 to Senate substitute amendment 1?

Senator Van Sistine moved rejection of Senate amendment 9 to Senate substitute amendment 1.

The question was: Rejection of Senate amendment 9 to Senate substitute amendment 1?

The ayes and noes were demanded and the vote was: ayes, 20; noes, 13; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Berndt, Burke, Czarnecki, Ellis, Farrow, George, Helbach, Huelsman, Lasee, Moen, Petak, Plewa, Risser, Roshell, Rude, Schultz, Ulichny, Van Sistine and Weeden — 20.

Noes — Senators Adelman, Barrett, Breske, Buettner, Chvala, Cowles, Decker, Feingold, Jauch, Llean, Lorman, Potter and Stitt — 13.

Absent or not voting — None.

Rejected.

Senate amendment 10 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Jauch, Rude, Breske, Lorman, Schultz, Roshell, Plewa, Huelsman, Berndt and Potter.

The question was: Adoption of Senate amendment 10 to Senate substitute amendment 1?

Senator Van Sistine moved rejection of Senate amendment 10 to Senate substitute amendment 1.

The question was: Rejection of Senate amendment 10 to Senate substitute amendment 1?

The ayes and noes were demanded and the vote was: ayes, 15; noes, 18; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Burke, Chvala, Czarnecki, George, Helbach, Moen, Plewa, Risser, Roshell, Stitt, Ulichny and Van Sistine — 15.

Noes — Senators Berndt, Breske, Buettner, Cowles, Decker, Ellis, Farrow, Feingold, Huelsman, Jauch, Lasee, Llean, Lorman, Petak, Potter, Rude, Schultz and Weeden — 18.

Absent or not voting — None.

Rejection refused.

The question was: Adoption of Senate amendment 10 to Senate substitute amendment 1?

Adopted.

Senate amendment 11 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Van Sistine, Moen and Rude.

The question was: Adoption of Senate amendment 11 to Senate substitute amendment 1?

Senator Van Sistine, with unanimous consent, asked that Senate amendment 11 to Senate substitute amendment 1 be returned to the author.

Senate amendment 12 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Decker, Risser, Feingold and Potter.

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The question was: Adoption of Senate amendment 12 to Senate substitute amendment 1?

Senator Van Sistine moved rejection of Senate amendment 12 to Senate substitute amendment 1.

The question was: Rejection of Senate amendment 12 to Senate substitute amendment 1?

Rejected.

Senate amendment 13 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Decker, Feingold and Rude.

The question was: Adoption of Senate amendment 13 to Senate substitute amendment 1?

Adopted.

Senate amendment 14 to Senate substitute amendment 1 to **Assembly Bill 655** offered by Senators Van Sistine and Rude.

The question was: Adoption of Senate amendment 14 to Senate substitute amendment 1?

Adopted.

The question was: Adoption of Senate substitute amendment 1?

Adopted.

Senate substitute amendment 2 to **Assembly Bill 655** offered by Senators Feingold, Decker, Burke, Risser, Plewa and Chvala.

The question was: Adoption of Senate substitute amendment 2?

Senator Moen raised the point of order that Senate substitute amendment 2 was not germane.

The Chair ruled the point well taken.

Ordered to a third reading.

Senator Helbach, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 655**

Read a third time.

The ayes and noes were required and the vote was: ayes, 32; noes, 1; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Barrett, Berndt, Breske, Buettner, Burke, Chvala, Cowles, Czarnecki, Decker, Ellis, Farrow, George, Helbach, Huelsman, Jauch, Lasee, Lekan, Lorman, Moen, Petak, Plewa, Potter, Risser, Roshell, Rude, Schultz, Stitt, Ulichny, Van Sistine and Weeden — 32.

Noes — Senator Feingold — 1.

Absent or not voting — None.

Concurred in as amended.

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MOTIONS

Senator Helbach, with unanimous consent, asked that all action be ordered immediately messaged.

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ADJOURNMENT

Senator Helbach, with unanimous consent, asked that the Senate adjourn until 10:00 A.M. Tuesday, March 3.

7:20 P.M.

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CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

**Senate Bill 519**

1. Page 1, line 3: after the first "978.001" insert "(1)".