

STATE OF WISCONSIN  
**Senate Journal**  
Ninety–Second Regular Session

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WEDNESDAY, September 25, 1996

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

**PETITIONS AND COMMUNICATIONS**

**State of Wisconsin  
Department of Administration**

September 10, 1996

The Honorable, The Legislature:

This report is transmitted as required by sec. 20.002(11)(f) of the Wisconsin Statutes, (for distribution to the appropriate standing committees under sec. 13.172(3) Stats.), and confirms that the Department of Administration has found it necessary to exercise the “temporary reallocation of balances” authority provided by this section in order to meet payment responsibilities and cover resulting negative balances during the month of August, 1996.

On August 1, 1996 Wisconsin Health Education Loan Repayment Fund balance was – \$29 thousand. This shortfall continued until August 2, 1996 when the balance reached \$2 thousand. This shortfall was due to the timing of revenues.

On August 1, 1996, the Wisconsin Health Insurance Risk Sharing Fund balance was –\$16 thousand. This shortfall grew to –\$20 thousand on August 29 and continued through the end of the month. This shortfall was due to the timing of revenues.

The Wisconsin Health Education Loan Repayment Fund and Health Insurance Risk Sharing 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 the State Controller’s Office will automatically reflect the use of these temporary reallocations of balance authority.

Sincerely,

JAMES R. KLAUSER  
Secretary

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

**State of Wisconsin  
Investment Board**

September 20, 1996

The Honorable, The Legislature:

Section [25.17\(14r\)](#) of the Statutes, as created by [1995 Wisconsin Act 274](#), requires that the State of Wisconsin Investment Board (SWIB) submit a report to the Joint Committee on Audit, Joint Committee on Finance, and Chief Clerks of each House summarizing any change in the Board’s investment policies, upon adoption of the change.

On September 12, 1996, the Board of Trustees approved a change to the investment guidelines for our domestic equities portfolios. The change is highlighted on the attached copy of the guidelines.

Our domestic equity investments are managed in three portfolios:

- The LARGE-CAP portfolio primarily invests in stocks with market capitalization of at least \$5.0 billion. Up to 20% of the portfolio value may be invested in stocks with a market capitalization of between \$1.0 and \$5.0 billion.
- The MID-CAP portfolio primarily invests in stocks with market capitalization between \$1.0 and \$5.0 billion. Up to 50% of the value of the portfolio may be invested in stocks with market capitalization over \$5.0 billion.
- The SMALL-CAP portfolio primarily invests in stocks with market capitalization of less than \$1.0 billion. Up to 10% of the value of the portfolio may be invested in stocks with a market capitalization between \$1.0 billion to \$5.0 billion.

Guideline Change

The change in the guidelines delegates authority to the Chief Investment Officer (CIO) to approve variations from these market capitalization limits, up to a maximum of 5% of the asset value for each portfolio. For example, with the approval of the CIO, the portion of the LARGE-CAP portfolio invested in stock between \$1.0 billion and \$5.0 billion could be increased from the current 20% to up to 25% of the value of the portfolio.

The purpose of this change is to allow for some modest amount of additional flexibility in managing the portfolios. The flexibility is needed because our investment strategies periodically cross the capitalization limits for each portfolio. As the overall market moves up and down, the definition of “large” or “small” might be expected to move commensurately. Even in a stable market, individual stocks will move back and forth across the market cap limits.

With this guideline change the overall emphasis of each portfolio will be retained and the additional flexibility will be under the oversight of the CIO.

Please feel free to contact me if you have any questions about this item.

Sincerely,

PATRICIA LIPTON  
Executive Director

**State of Wisconsin  
Legislative Audit Bureau**

September 19, 1996

The Honorable, The Legislature:

We have completed a review of state agency efforts to provide prevention programs to children, youth, and families, as

directed by the Joint Legislative Audit Committee. These programs have been developed to address a wide variety of problems, including adolescent pregnancy, child abuse and neglect, crime and juvenile delinquency, domestic abuse, alcohol and other drug abuse, poor academic performances and school dropouts, and health problems. In fiscal year (FY) 1994–95, 13 state agencies administered the 88 prevention programs we identified, and program costs totaled \$181.8 million.

We found significant overlap in the services provided to prevent various types of problems and in the populations to which these services are directed. While federal regulations have in some instances created barriers to the consolidation of program funds, the State has also created specific requirements that act as barriers to program consolidation.

Some attempts have been made to evaluate the effectiveness of prevention programs. Specifically, within the past ten years, efforts were made to evaluate the effectiveness of 31, or 35.2 percent, of the programs. However, additional efforts are needed if the Legislature and the public are to be assured that funds are dedicated only to programs that are likely to be effective in accomplishing their objectives. In addition, additional efforts to coordinate prevention activities could allow services to be provided more efficiently and effectively at both the state and the local level.

Although most programs could be consolidated within a single agency, more feasible strategies are likely to include consolidating funding for state programs that provide similar services; enhancing local prevention efforts through funding strategies that encourage development of local prevention initiatives and provide more flexibility in the use of state funds; and providing more effective information and technical assistance services, such as identifying effective models that local agencies may use in establishing their own programs.

Appendices to the report include descriptions of each of the prevention programs administered by state agencies. We appreciate the courtesy and cooperation extended to us by the many state and local staff and representatives of community-based organizations who assisted us during the course of this evaluation. Responses from the Department of Health and Social Services and the Department of Public Instruction, the two agencies to whom we have directed recommendations, are Attachments VI and VII, respectively.

Sincerely,

DALE CATTANACH  
State Auditor

**State of Wisconsin  
Ethics Board**

September 16, 1996

The Honorable, The Senate:

I am pleased to provide you with the accompanying report of the State of Wisconsin Ethics Board's activities for the year July 1995 through June 1996. This report provides information on the Board's operations and contains the texts of Wisconsin's Ethics Code and lobbying law. It also includes a description of complaints and investigations pursued by the Ethics Board, and summaries of advisory opinions issued by the Board during the year.

Sincerely,

R. ROTH JUDD  
Executive Director

**State of Wisconsin  
Public Defender**

September 19, 1996

The Honorable, The Legislature:

This letter constitutes the report of the State Public Defender (SPD) evaluating the cost-effectiveness of the use of the 12 FTE two-year paralegal project positions provided for in the 1995–97 biennial budget (1995 Wisconsin Act 27).

To assist in evaluating the cost-effectiveness of the positions, the agency has been soliciting feedback from the paralegals' supervisors on a monthly basis. As indicated in the SPD's Budget Forecasting Report, the agency's experience with the paralegals has yielded primarily positive results. The paralegals have enabled the agency to improve the quality of legal service provided and have demonstrated the potential for increasing the volume of cases handled.

However, the ability of the paralegals to facilitate an increased caseload is limited by licensing restrictions on tasks that they may perform. For example, paralegals may not represent clients in court proceedings, even for routine or uncontested hearings. Because the vast majority of an assistant state public defender's work time is spent in court, a paralegal's work is unable to equate 100% of the statutory attorney caseload.

Agency wide, paralegals currently enabled attorneys to handle additional cases approximating, on average, 25% of an attorney caseload. At this rate, the annual savings from the caseload generated by use of the paralegals is approximately \$364,400. The annual cost of the 12 project positions, including salaries (\$328,700), fringe benefits (\$108,800) and supplies (\$49,200), is approximately \$486,700. Consequently, the paralegals currently result in a net annual cost to the agency of approximately \$122,300.

The agency believes the paralegal project is still evolving, however, and that the paralegals may increase in efficiency and cost-effectiveness as they become more familiar with the SPD's legal practice and the field supervisors and attorneys become more skilled in their use of paralegals. Therefore, the agency has requested in its 1997–99 biennial budget proposal that the 12 paralegal project positions be continued for another two years at 50% of the statutory attorney caseload. Based on the agency's study of the project thus far, this caseload figure appears to be a more reasonable expectation of what the paralegals may achieve. If the goal is actually met, the agency's use of the paralegals would result in a net annual savings of approximately \$242,100 (assuming the cost figure remains constant).

Thank you for your support of the paralegal project and the agency.

Sincerely,

SALLY MAYNE PEDERSON  
Legal Counsel

**State of Wisconsin  
Claims Board**

September 17, 1996

The Honorable, The Senate:

Enclosed is the report of the State Claims Board covering the claims heard on August 28, 1996.

The amounts recommended for payment under \$5,000 on claims included in this report have, under the provisions of s. 16.007, Stats., been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$5,000, if any, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,

EDWARD D. MAIN  
Secretary

**STATE OF WISCONSIN CLAIMS BOARD**

The State Claims Board conducted hearings at 1 East Main Street, Madison, Wisconsin on August 28, 1996, upon the following claims:

<u>Claimant</u>	<u>Amount</u>
1. Mary Jane Houle (for John Niglis)	\$1,856.90
2. Lois Brucek	\$155,400.98
3. Consolidated Water Power Co.	\$38,343.00
4. Flambeau Paper Corp.	\$233,999.00
5. Kimberly-Clark Tissue Co.	\$4,089.00
6. Nekoosa Papers, Inc.	\$21,284.00
7. Niagara of Wisconsin	\$38,047.00
8. Northern States Power Co.	\$98,117.00
9. Weyerhaeuser Paper Co.	\$4,843.00
10. Wisconsin Power & Light Co.	\$87,250.00
11. Wisconsin Public Service Corp.	\$164,101.00
12. Wisconsin River Power Co.	\$76,463.00
13. Wisconsin Valley Improvement	\$78,863.00

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

14. Levi Boettcher	\$2,075.00
15. Terry & Buffy Gottowske	\$240.73
16. Mark Shepard	\$93.60
17. Fen-Tech, Inc.	\$816.00
18. Nitty Gritty Dirt Band	\$6,212.00
19. Tracy Oates	\$5,513.33
20. John Stiefel	\$250.00
21. Kenneth Vosekuil	\$233.20
22. Tasko Systems, Inc.	\$115,335.00

The Board Finds:

1. Mary Jane Houle of Southbury, Connecticut, claims \$1,856 for refund of money seized in February 1995 from her son's savings account in a levy action by the Department of Revenue. The claimant's son had a delinquent tax account with a balance due of \$2,697.47. The claimant's son owed taxes of \$580.59 for 1986 and \$91.65 for 1987 per income tax returns filed for those years. There was also an estimated tax assessment for 1988 of \$2,025.24. Subsequent to the levy action, information was submitted which indicated that the claimant's son had no filing requirement for 1988. His delinquent account was adjusted to zero, however, the two year statute of limitations for a refund had expired. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

2. Lois Brucek of Ladysmith, Wisconsin, claims \$155,400.98 for medical bills, lost wages, travel expenses and pain and suffering related to an accident at Interstate Park on July 25, 1995. The claimant and her husband were leaving the park and decided to stop at the park rest room. The claimant was carrying a lawn chair over one arm. As she approached the bathroom, she tripped on the edge of the cement skirting in front of the entrance. She fell forward, fracturing her hand and hitting

her face on the cement. Her glasses were damaged, her lip was split open and she damaged or loosened six crowns on her teeth. The claimant's hand required therapy and eventually surgery and she has been unable to work since the accident. The claimant still has pain in her hand and has difficulty doing everyday chores such as bathing, dressing and cooking. She requests reimbursement as follows: \$643.65 – travel expenses related to medical treatment. \$4,509.57 – lost wages. \$36.26 – prescription medication. \$66.50 – repair of glasses. \$45.00 – uninsured dental bills. \$100.00 – hiring help for household chores. \$35,000.00 – lost future wages. \$80,000.00 – pain and suffering and unpaid bills (\$440) for hired help. \$20,000.00 – permanent damage to mouth and teeth. \$15,000.00 – husband's claim of lost companionship. 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. (Senator Burke dissenting.)

3. Consolidated Water Power Company of Wisconsin Rapids, Wisconsin, claims \$38,343.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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.

4. Flambeau Paper Corporation of Park Falls, Wisconsin, claims \$233,999.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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.

5. Kimberly-Clark Tissue Company of Marinette, Wisconsin, claims \$4,089.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees

and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Nekoosa Papers, Inc. of Port Edwards, Wisconsin, claims \$21,284.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Niagara of Wisconsin of Wisconsin Rapids, Wisconsin, claims \$38,047.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Northern States Power Company of Eau Claire, Wisconsin, claims \$98,117.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural

Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Weyerhaeuser Paper Company of Rothschild, Wisconsin, claims \$4,843.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Wisconsin Power and Light Company of Madison, Wisconsin, claims \$87,250.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Wisconsin Public Service Corporation of Green Bay, Wisconsin, claims \$164,101.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Wisconsin River Power Company of Wisconsin Rapids, Wisconsin, claims \$76,463.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Wisconsin Valley Improvement Company of Wausau, Wisconsin, claims \$78,863.00 for reimbursement of fees paid to the Department of Natural Resources from 1990 through 1995. The fees were collected by the Department under s. 23.42, Stats., for costs incurred by the Department for conducting environmental studies of the claimant's hydroelectric power projects. The Department required the claimant to pay the fees and the statute provided no mechanism for protest. Section 23.42, Stats., was declared unconstitutional on January 4, 1996, by US District Court Judge Barbara Crabb and the Department was enjoined from attempting to enforce the statute. The claimant believes the Department of Natural Resources acted beyond its authority when it collected fees pursuant to an unconstitutional statute and that the state was unjustly enriched in the amount of those payments. The claimant requests reimbursement of the moneys it paid to the Department pursuant to s. 23.42, Stats. 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. Levi Boettcher of Alma, Wisconsin, claims \$2,075.00 for the loss of 25 lambs that were killed by coyotes. The lambs are valued at \$83 each. The claimant states that the DNR has refused to control the coyotes. The claimant believes that because the DNR has the power to "protect, conserve, and regulate the taking, use, and disposition of wild animals" that the DNR should be held responsible for the damage done by the coyotes. The claimant feels that since the state owns the coyotes, the state should reimburse him for the loss of his lambs. 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. Terry and Buffy Gottowske of Nekoosa, Wisconsin, claim \$240.73 for reimbursement of uninsured medical bills related to an incident at Devil's Lake State Park. The claimants' son was bitten by a wild animal while the claimants were camping at the park. The claimants were not able to locate or identify the animal. The claimants' son was treated at the hospital and received a series of rabies shots. Their medical

insurance covered all but \$240.73. The claimants feel it is only fair for the state to pay the bills, since the incident would not have occurred if they had not been camping at the park. 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.

16. Mark Shepard of Richland Center, Wisconsin, claims \$93.60 for replacement and cleaning cost for clothing and a sleeping bag which were damaged while the claimant was camping at Tower Hill State Park, on May 29, 1996. He was unaware that there were picnic tables at the park which had been painted that day. He left his campsite to go for a walk that evening. He laid his sleeping bag on a picnic table so he could look at the stars and he sat down on the table. His sleeping bag, shirt and pants were badly stained by the wet paint on the table. There was no "wet paint" sign on any of the picnic tables. He tried to have the shirt cleaned but the stain would not come out. He requests reimbursement for his cleaning bill, sleeping bag, shirt and pants. The Board concludes the claim should be paid in the amount of \$93.60 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.

17. Fen-Tech, Inc., of Superior, Wisconsin, claims \$816.00 for reimbursement of overpayment of fees due to incorrect filing of a foreign corporation annual report with the Secretary of State's office. The claimant incorrectly reported 90,000 issued shares of no par value stock, when the correct figure was 8,000 shares. If the claimant had filled out the report correctly, no fee would have been assessed. The claimant requests reimbursement of the \$816 fee. 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.

18. The Nitty Gritty Dirt Band of Nashville, Tennessee, claims \$3,313.00 for 1993 tax refund withheld due to nonpayment of franchise tax returns. In 1994 the claimants hired a new accounting firm to act as a business manager and prepare tax returns. In January 1995 they received a letter from the Department of Revenue stating that the claimants' lower withholding request could not be granted since franchise tax returns were not filed for the fiscal years ending 1/31/93 and 1/31/94. The business manager filed the returns for those years and the lower withholding was granted. In May 1995 the claimants received notice of a balance due of \$7,081.16. This was the balance after the 1/31/93 tax return had been applied against the total assessment. The business manager contacted the Department of Revenue regarding the assessment and was told it was due to the claimants not filing returns for FY's 1/31/87 and 1/31/88. The business manager immediately attempted to locate prior IRS returns so that he could prepare the Wisconsin tax returns, however the claimants' former business manager did not have the returns. It took six months to get copies of the returns from the IRS because the original returns had been lost in a fire. The returns were filed in January 1996. The total amount due in refunds for those years was \$9,487. The claimants were told that they could not be refunded the money because of the statute of limitations. The claimants understand that the refunds from FY's 1/31/87 and 1/31/88 were denied due to delinquencies. However, they do not believe the 1994 refund should have been used to offset an estimated tax for FY's 1/31/87 and 1/31/88. The Department of Revenue collected refunds of \$6,212 to pay taxes of only \$191. The claimants do not believe this is fair or ethical. 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.

19. Tracy Oates of Racine, Wisconsin, claims \$5,513.33 for medical bills, lost wages and pain and suffering related to an accident on December 8, 1995, at UW-Milwaukee. The claimant slipped and fell in the stairwell of a parking ramp, dislocating her shoulder. The claimant requests reimbursement for her medical bills which total \$2,313.33. She also requests compensation for lost wages. The claimant works out of her home as a hair dresser and was unable to work for about 3 weeks after the accident. She requests \$1,200 for lost wages for this period. Finally, the claimant requests payment of \$2,000 for her pain and suffering. 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. John Stiefel of Madison, Wisconsin, claims \$250.00 for reimbursement of money and property taken when the claimant was robbed at gun point while traveling in New York on business for the Investment Board. The thieves took his wallet (\$172 cash, \$10 wallet) and watch (\$69). The claimant also had to pay \$10 for a duplicate key for his lodging and \$4 for a duplicate drivers license. His homeowners insurance has a \$250 deductible, therefore, only \$15 of his \$265 loss is covered by his insurance. He requests reimbursement of his insurance deductible, since the incident occurred while he was traveling on state business. The Board concludes the claim should be paid in the amount of \$250.00 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the State of Wisconsin Investment Board appropriation s. 20.536 (1)(k), Stats.

21. Kenneth Vosekuil of Fox Lake, Wisconsin, claims \$233.20 for cost of issuing subpoenas and personal time related to a citation the claimant received from the State Patrol. The claimant called a manufacturer to purchase a set of neon perimeter lights for his vehicle. The manufacturer told him to check with state laws to see if the lights were legal in Wisconsin before ordering them. The claimant contacted the local DMV office, the Beaver Dam Police, the Dodge County Police, and the State Patrol, all of whom said that they knew of no law against the lights. A State Patrol officer told the claimant he could have people call the officer for confirmation. Several weeks after he installed the lights, the claimant was pulled over by a Beaver Dam Police officer. The officer checked and found no law under which to cite the claimant so he let him go. Some time later, the claimant was stopped by a State Trooper. He told the officer that he had been informed that the lights were legal. The claimant states that the officer then became angry and told the claimant that he was going to give him as many tickets as he could and went back to the patrol car. The officer later let him go without ticketing him and told him not to run the lights on the highway. The next day the officer called the claimant and told him he was sending him a citation for \$85 because the lights were illegal. The claimant contacted the Beaver Dam Police Department and explained the situation. The Beaver Dam Police Department wrote a statement indicating that they had told the claimant that the lights were legal. The claimant's attorney tried to have the citation dismissed to no avail, therefore, subpoenas were issued for Beaver Dam and State Patrol officers. On the day of the trial, after speaking with the subpoenaed officers, the State decided to dismiss the case. Because the case was dismissed before going to trial, the claimant is responsible for the cost of issuing the subpoenas (\$183.20). He requests reimbursement of this expense, plus \$50 for personal time and out of pocket expenses. The Board

concludes the claim should be paid in the reduced amount of \$183.20 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)(dq), Stats.

22. Tasko Systems, Inc. of Eau Claire, Wisconsin, claims \$115,335.00 for damages related to an alleged breach of contract by the Department of Health and Family Services. In July 1993 the Department of Health and Family Services solicited bids for Pre-admission Screenings and Annual Resident Reviews (PASARR). PASARR is required by the federal government to be provided by the state for its participation in the Medical Assistance program and is used to screen nursing home applicants and residents for serious mental illness and developmental disabilities. The Department contracted with the claimant to provide these services. As part of the contract, the Department agreed to pay the claimant within four weeks of the receipt of an invoice. On June 15, 1995, the claimant was notified by the Bureau of Management and Operations that the first year audits of the PASARR program would not be used to determine allowable/reimbursable expenditures under the 1994 and 1995 contract periods. The claimant submitted an invoice for \$115,335 for December 1995. On February 9, 1996, the Department of Health and Family Services informed the claimant that this invoice would not be paid due to unresolved audit issues. The claimant requests payment of their December 1995 invoice in the amount of \$115,335. The claimants have filed a Notice of Claim with the Attorney General's office under s. 893.80(1), Stats. 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:

John Niglis	Lois Brucek
Flambeau Paper Corp.	Levi Boettcher
Kimberly-Clark Tissue Co.	Terry & Buffy Gottowske
Nekoosa Papers, Inc.	Fen-Tech, Inc.
Niagara of Wisconsin	Nitty Gritty Dirt Band
Northern States Power Co.	Tracy Oates
Weyerhaeuser Paper Co.	Tasko Systems, Inc.
Consolidated Water Power Co.	
Wisconsin Valley Improvement Co.	
Wisconsin Power & Light Co.	
Wisconsin Public Service Corp.	
Wisconsin River Power Co.	

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

Mark Shepard	\$93.60
John Stiefel	\$250.00
Kenneth Vosekuil	\$183.20

Dated at Madison, Wisconsin this 11th day of September, 1996.

BRIAN BURKE  
Senate Finance Committee

BEN BRANCEL  
Assembly Finance Committee

ALAN LEE  
Representative of the Attorney General

EDWARD D. MAIN, REPRESENTATIVE OF THE  
Secretary of Administration

STEWART SIMONSON  
Representative of the Governor

**EXECUTIVE COMMUNICATIONS**

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

**EXECUTIVE ORDER #298**

*Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Spiro T. Agnew, Former Vice President of the United States*

**WHEREAS**, on September 17, 1996, Spiro T. Agnew died at the age of seventy-seven; and

**WHEREAS**, Spiro Agnew served as Vice President of the United States from 1969 to 1973; and

**WHEREAS**, Federal law provides that the flag of the United States shall be flown at half-staff from the day of death until the day of interment for a former vice president of the United States (see 36 USCS s. 175 (m));

**NOW, THEREFORE, I, TOMMY G. THOMPSON**, Governor of the State of Wisconsin, by the authority vested in me by the Federal and State law, do hereby order that the flag of the United States and the flag of the State of Wisconsin shall be flown at half-staff at all buildings, grounds and military installations of the State of Wisconsin equipped with such flags beginning forthwith until sunset on the day of former Vice President Agnew's interment.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the city of Madison this eighteenth day of September in the year one thousand nine hundred and ninety-six.

TOMMY G. THOMPSON  
Governor

BY THE GOVERNOR:

DOUGLAS LA FOLLETTE  
Secretary of State

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

**EXECUTIVE ORDER #299**

*Relating to the Transfer of the Neurointerventional Angiography Program to the University of Wisconsin Hospitals and Clinics*

**WHEREAS**, nearly all necessary neurointerventional angiography service has been provided to University of Wisconsin Hospitals and Clinics (UWHC) patients by the adjoining Middleton Veterans Administration Hospital (VA Hospital) since UWHC's move to the University of Wisconsin Clinical Science Center in 1979; and

**WHEREAS**, The University of Wisconsin Hospital and Clinics Authority will re-establish a complete neurointerventional angiography program at the University of Wisconsin Clinical Science Center to provide patient access to necessary new technology and to integrate neuroimaging and neurosurgery programs; and

**WHEREAS**, part of the program to be re-established includes the need for qualified neuroangiography technologists to be employed by the University of Wisconsin Hospitals and Clinics Board (UWHC Board); and

**WHEREAS**, there is a shortage of qualified neuroangiography technologists; and

**WHEREAS**, the individuals working in the neurointerventional angiography program were and continue to be under the direction of Dr. Donald R. Yandow, M.D., a University of Wisconsin Medical School faculty member; and

**WHEREAS**, the transfer of neurointerventional angiography technologist staff will provide a smooth transition and uninterrupted quality patient care;

**NOW, THEREFORE, I, TOMMY G. THOMPSON**, Governor of the State of Wisconsin, by virtue of the authority vested in me by the Constitution and laws of the State of Wisconsin, and in accordance with Secs. 111.93(3), 230.15(1m) and 230.15(2), Wis. Stats., and the contract between the State of Wisconsin and the Wisconsin State Employees Union in Article V, Section 1, do hereby direct that:

All employees of the adjoining Middleton VA Hospital neurointerventional angiography program who the Department of Employment Relations determines are eligible for accretion into the classified service of the State of Wisconsin at the UWHC Board shall be given seniority based on their service with the adjoining Middleton VA Hospital.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the city of Madison this twentieth day of September in the year one thousand nine hundred and ninety-six.

TOMMY G. THOMPSON  
Governor

BY THE GOVERNOR:

DOUGLAS LA FOLLETTE  
Secretary of State

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

**Senate Clearinghouse Rule 96-091**

Relating to Wisconsin sales and use taxes.

Submitted by Department of Revenue.

Report received from Agency, September 19, 1996.

Referred to committee on **Economic Development, Housing, Government Operations and Cultural Affairs**, September 25, 1996.

**Senate Clearinghouse Rule 96-103**

Relating to review of plans for constructing or remodeling a hospital, nursing home or facility for the developmentally disabled (FDD), including review for compliance with the state building code, and fees for plan review.

Submitted by Department of Health and Social Services.

Report received from Agency, September 24, 1996.

Referred to committee on **Health, Human Services, Aging and Corrections**, September 25, 1996.

The committee on **Agriculture, Transportation, Utilities and Financial Institutions** reports and recommends:

**Senate Clearinghouse Rule 95-097**

Relating to egg grading, handling and labeling.

No action taken.

**Senate Clearinghouse Rule 96-002**

Relating to soil and water resource management.

No action taken.

**Senate Clearinghouse Rule 96-017**

Relating to standards for water public utility service.

No action taken.

**Senate Clearinghouse Rule 96-110**

Relating to CDL waivers for snowplow operators employed by local units of government with populations of less than 3,000.

No action taken.

Alice Clausing  
Chairperson