

JOURNAL OF THE ASSEMBLY [June 20, 1967]

STATE OF WISCONSIN

Assembly Journal

Seventy-Eighth Regular Session

TUESDAY, June 20, 1967.

9:00 A.M.

The assembly met.

The speaker in the chair.

The prayer was offered by Rev. Ray E. Robinson, Sherman Avenue Methodist Church, 3705 N. Sherman Avenue, Madison, Wisconsin.

Assemblyman Wackett led the membership in reciting the pledge of allegiance to the flag of the United States.

The roll was taken.

The result follows:

Present—Alfonsi, Anderson G. K., Anderson N. C., Atkinson, Azim, Baldus, Barbee, Bellante, Belting, Blanchard, Boche, Bock, Bolle, Brown, Clemens, Conradt, Devitt, Doughty, Dueholm, Tregoning, Gee, Gehrman, Gessert, Groshek, Grover, Hanna, Heinzen, Held, Hephner, Huber, Hutnik, Jahnke, Johnson L. H., Johnson W. A., Jones, Kafka, Kaufman, Kavanaugh, Kenyon, Kessler, Klicka, Kordus, Kunde, Laper, Lewison, Lipscomb, Lynch, McCann, McCormick, McDougal, McEssy, McKay, Manders, Martin, Mathews, Mato, Merkel, Mertz, Mittness, Molinaro, Nager, Nitschke, Nuttelman, Obey, Olson, O'Malley, Orlich, Pabst, Packard, Parys, Peloquin, Perala, Quinn, Radcliffe, Riehle, Rogers, Schaeffer, Schroeder, Schwefel, Shabaz, Shurbert, Sicula, Soik, Stalbaum, Steinhilber, Stevenson, Sweda, Thompson, Tobiasz, Uehling, Vanderperren, Van Hollen, Wackett, Warren, Wartinbee, Waters, Weisensel, Wilger, York and Mr. Speaker—100.

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AMENDMENTS OFFERED

Assembly Amendment 2 to Assembly Bill 50 offered by Assemblyman Barbee.

Assembly Amendment 1 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblymen Barbee, Rogers, Obey and Lipscomb.

Assembly Amendment 2 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman Atkinson.

Assembly Amendment 3 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman Atkinson.

Assembly Amendment 4 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman Atkinson.

Assembly Amendment 1 to Assembly Amendment 4 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman Atkinson.

Assembly Amendment 2 to Assembly Amendment 4 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman Atkinson.

Assembly Amendment 5 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman McDougal.

Assembly Amendment 6 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman Atkinson.

Assembly Amendment 7 to Assembly Substitute Amendment 1 to Senate Bill 82 offered by Assemblyman Atkinson.

Assembly Amendment 1 to Assembly Bill 153 offered by Assemblyman Atkinson.

Assembly Amendment 3 to Assembly Substitute Amendment 1 to Assembly Bill 153 offered by Assemblyman York.

Assembly Amendment 4 to Assembly Substitute Amendment 1 to Assembly Bill 153 offered by Assemblyman Atkinson.

Assembly Amendment 5 to Assembly Substitute Amendment 1 to Assembly Bill 153 offered by Assemblyman N. C. Anderson.

Assembly Amendment 4 to Assembly Bill 641 offered by Assemblymen Sricula and Held.

Assemblyman Martin asked unanimous consent that the Assembly stand recessed for one hour. Granted.

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10:05 A.M.

RECESS

11:20 A.M.

The assembly reconvened.

MOTIONS UNDER JOINT RULE 26

Assemblyman Grover moved adoption of the following certificate, co-sponsored by Senator LaFave.

The State of Wisconsin * * * Citation by the Legislature

Whereas, Mr. Otto W. Neumann of Gillett, Wisconsin is being honored on June 22, 1967 for outstanding leadership and service in the field of public education, and Whereas, Mr. Neumann has served public education in Wisconsin as a rural school teacher, an elementary school teacher, an elementary school principal, a county supervising teacher, a county superintendent, and is presently coordinator of Co-operative Educational Service Agency Number 3, and Whereas, Mr. Neumann will complete 34 years of service upon his retirement on June 30, 1967; now, therefore,

The Members of the Wisconsin Legislature extend their sincere congratulations and sincere appreciation to Mr. Otto W. Neumann for his service to Public Education.

The question was: Adoption.

Motion carried.

Assemblyman Grover asked unanimous consent that the Assembly's action under joint rule 26 be immediately messaged to the Senate. Granted.

Assemblyman Tregoning moved adoption of the following certificate, co-sponsored by Senator Roseleip.

The State of Wisconsin * * * Citation by the Legislature

Whereas, Our Lady Hope Catholic Church of Truman, Wisconsin is celebrating its centennial year. We the members of the legislature do congratulate you and wish you another one hundred years of longevity and success; now, therefore,

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The Members of the Wisconsin Legislature, on the motion of Assemblyman Tregoning, co-sponsored by Senator Roseleip, extend their congratulations.

The question was: Adoption.

Motion carried.

Assemblyman Tregoning asked unanimous consent that the Assembly's action under Joint Rule 26 be immediately messaged to the Senate. Granted.

Assemblyman McKay asked unanimous consent that the rules be suspended and that Senate Bill 347 be withdrawn from the committee on Excise and Fees and taken up at this time. Granted.

SECOND READING AND AMENDMENT OF SENATE BILLS

Senate Bill 347

Relating to liquor licenses issued for premises near schools, churches and hospitals.

The question was: Shall Senate Bill 347 be ordered to a third reading?

Motion carried.

Assemblyman McKay asked unanimous consent that the rules be suspended and that Senate Bill 347 be given a third reading. Granted.

The question was: This bill having been read three times, shall the bill be concurred in?

The roll was taken.

The vote follows:

Ayes—Alfonsi, Anderson G. K., Anderson N. C., Atkinson, Baldus, Bock, Bolle, Conradt, Devitt, Doughty, Dueholm, Tregoning, Gee, Gehrman, G e s s e r t, Groshek, Grover, Hanna, Heinzen, Held, Hephner, Huber, Hutnik, Jahnke, Johnson W. A., Jones, Kafka, Kaufman, Kavanaugh, Kenyon, Kessler, Klicka, Kordus, Kunde, Laper, Lewison, Lipscomb, Lynch, McCann, McCormick, McDougal, McEssy, McKay, Manders, Martin, Mato, Merkel, Mertz, Mittness, Molinaro, Nitschke, Nuttelman, Obey, Olson, O'Malley, Pabst, Packard, Parys, Peloquin, Perala, Quinn, Radcliffe,

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Riehle, Rogers, Schaeffer, Schroeder, Schwefel, Shabaz, Shurbert, Sicula, Soik, Stalbaum, Steinhilber, Stevenson, Sweda, Thompson, Tobiasz, Vanderperren, Van Hollen, Wackett, Wartinbee, Waters, Wilger and Mr. Speaker—84.

Noes—Barbee, Belting, Blanchard, Boche, Mathews, Uehling, Weisensel and York—8.

Absent or not voting—Azim, Bellante, Brown, Clemens, Johnson L. H., Nager, Orlich and Warren—8.

Motion carried.

Assemblyman Martin asked unanimous consent that the Assembly's action on Senate Bill 347 be immediately messaged to the Senate. Granted.

Assemblyman Orlich requested that he be recorded as voting, "Aye". Granted.

Assemblyman Azim requested that he be recorded as voting, "Aye". Granted.

Assemblyman Parys asked unanimous consent that Assembly Bill 119 be withdrawn from the committee on Excise and Fees and taken up at this time. Granted.

The question was: Shall the bill be ordered engrossed and read a third time?

The roll was taken.

The vote follows:

Ayes—Alfonsi, Anderson N. C., Atkinson, Azim, Baldus, Barbee, Bellante, Blanchard, Bock, Brown, Conradt, Devitt, Doughty, Gee, Gehrmann, Groshek, Grover, Hanna, Held, Hephner, Huber, Hutnik, Johnson W. A., Jones, Kaufman, Kavanaugh, Kenyon, Kessler, Kordus, Lipscomb, McCann, McEssy, Manders, Mertz, Nager, Nitschke, Nuttelman, Obey, Olson, O'Malley, Orlich, Pabst, Packard, Parys, Pelouquin, Quinn, Radcliffe, Riehle, Rogers, Schaeffer, Schroeder, Shabaz, Sicula, Soik, Steinhilber, Sweda, Thompson, Tobiasz, Vanderperren, Wackett, Wilger and Mr. Speaker—62.

Noes—Anderson G. K., Belting, Boche, Bolle, Dueholm, Tregoning, Gessert, Heinzen, Jahnke, Kafka, Klicka, Laper, Lynch, McCormick, McDougal, McKay, Martin, Mathews, Mato, Merkel, Mittness, Schwefel, Shurbert, Stalbaum, Stevenson, Uehling, Van Hollen, Wartinbee, Waters, Weisensel and York—31.

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Absent or not voting—Clemens, Johnson L. H., Kunde, Lewison, Molinaro, Perala and Warren—7.

Motion carried.

Assemblyman Alfonsi asked unanimous consent that the rules be suspended and that **Assembly Bill 119** be given a third reading. Granted.

The question was: This bill having been read three times, shall the bill pass?

The roll was taken.

The vote follows:

Ayes—Alfonsi, Anderson G. K., Anderson N. C., Atkinson, Azim, Baldus, Barbee, Bellante, Blanchard, Bock, Bolle, Brown, Conradt, Devitt, Doughty, Gee, Gehrman, Groshek, Grover, Hanna, Held, Hephner, Huber, Johnson W. A., Jones, Kafka, Kaufman, Kavanaugh, Kenyon, Kessler, Kordus, Lewison, Lipscomb, McCann, McDougal, McEssy, McKay, Manders, Mertz, Nager, Nitschke, Obey, Olson, O'Malley, Orlich, Pabst, Packard, Parys, Peloquin, Quinn, Radcliffe, Riehle, Rogers, Schaeffer, Schroeder, Sicula, Soik, Steinhilber, Sweda, Thompson, Tobiasz, Vanderperren, Waters, Wilger and Mr. Speaker—65

Noes—Belting, Boche, Dueholm, Tregoning, Gessert, Heinzen, Klicka, Laper, Lynch, McCormick, Mathews, Mato, Merkel, Mittness, Schwefel, Shabaz, Shurbert, Stalbaum, Stevenson, Uehling, Van Hollen, Wackett, Wartinbee, Weisenel and York—25.

Absent or not voting—Clemens, Hutnik, Jahnke, Johnson L. H., Kunde, Martin, Molinaro, Nuttelman, Perala and Warren—10.

Motion carried.

Assemblyman McKay asked unanimous consent that the Assembly's action on **Assembly Bill 119** be immediately messaged to the Senate. Granted.

Assemblyman Kessler asked unanimous consent that **Assembly Bill 549** be withdrawn from the calendar of June 8th and be referred to committee on State Affairs. Granted.

Assemblyman McKay asked unanimous consent that **Assembly Joint Resolution 61** be withdrawn from the committee on Education and placed on the calendar of June 9th. Granted.

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Assemblyman McKay asked unanimous consent that Assembly Bill 71 be withdrawn from the calendar of June 20th and be taken up at this time. Granted.

The question was: Shall Senate Substitute Amendment 1 be concurred in?

Motion carried.

Assemblyman McKay asked unanimous consent that the Assembly's action on Assembly Bill 71 be immediately messaged to the Senate. Granted.

MOTION UNDER JOINT RULE 26

Assemblyman McKay moved adoption of the following certificate.

The State of Wisconsin * * * Citation by the Legislature

Whereas, Assemblyman and Mrs. Kenneth J. Merkel on Thursday, June 15, 1967, became the proud parents of a 7 lb. 8 oz. baby girl; now, therefore,

The Members of the Wisconsin Legislature extend to Mary Catherine Merkel every best wish for a happy, healthy, and prosperous future.

The question was: Adoption.

Motion carried.

LEAVE OF ABSENCE

Assemblyman McKay asked unanimous consent for leave of absence for Assemblyman L. H. Johnson for today's session. Granted.

NOTIFICATION TO DANE COUNTY CLERK

Assemblyman McKay asked unanimous consent that the chief clerk be instructed to notify the Dane county clerk that the assembly regrettably does not find itself in a position to honor the invitation of the Dane County Board of Supervisors to tour the Dane County Coliseum as guests of

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Dane county at this time, by reason of exceedingly pressing legislative business. Granted.

INTRODUCTION AND REFERENCE OF
JOINT RESOLUTIONS

Read and referred:

Assembly Joint Resolution 78

Introduced by Assemblymen Kunde, Kordus, Lynch, Bolle, Hanna, McDougal and Stevenson.

To committee on Highways.

INTRODUCTION AND REFERENCE OF BILLS

Read first time and referred:

Assembly Bill 895

Introduced by joint committee on Finance.

To joint committee on Finance.

Assembly Bill 896

Introduced by Assemblyman Kunde.

To committee on Public Welfare.

Assembly Bill 899

Introduced by Assemblymen Peloquin, Orlich, Sicula, Atkinson, McDougal, Jones, Barbee, Stevenson and Radcliffe.

To joint Survey committee on Tax Exemptions.

Assembly Bill 900

Introduced by Assemblymen Peloquin and Barbee.

To committee on State Affairs.

Assembly Bill 901

Introduced by Assemblymen Mertz, Lipscomb, Orlich, Barbee, Bolle, Kessler, N. C. Anderson, Tobiasz and Stevenson.

To committee on Education.

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Assembly Bill 902

Introduced by Assemblymen Peloquin, Hephner, Orlich, Sicula and Radcliffe.

To committee on Taxation.

Assembly Bill 903

Introduced by Assemblymen Peloquin and Dueholm.

To committee on Education.

Assembly Bill 904

Introduced by Assemblyman Peloquin.

To committee on Public Welfare.

Assembly Bill 905

Introduced by Assemblymen Peloquin, Hephner, Brown, Mato, Dueholm, Rogers and Lipscomb.

To committee on Public Welfare.

Assembly Bill 906

Introduced by Assemblymen Peloquin and Barbee.

To committee on Public Welfare.

Assembly Bill 907

Introduced by Assemblymen Peloquin, Obey, Sweda, Tobiasz, Hephner and Barbee.

To committee on Highways.

Assembly Bill 908

Introduced by Assemblymen Peloquin, Orlich, Mittness, Sicula, Atkinson, McDougal, Jones and Barbee.

To joint Survey committee on Tax Exemptions.

Assembly Bill 909

Introduced by Assemblymen Peloquin, Sweda, Hephner and Dueholm.

To committee on Education.

Assembly Bill 910

Introduced by Assemblymen Bellante, Held, Devitt and Soik.

To committee on Public Welfare.

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Assembly Bill 911

Introduced by Assemblyman Bellante.
To committee on Education.

Assembly Bill 912

Introduced by Assemblymen Peloquin, Hephner, Parys, Dueholm and Barbee.
To committee on Public Welfare.

Assemblyman Alfonsi asked unanimous consent that **Assembly Bill 241** be withdrawn from the table and taken up at this time. Granted.

Assembly Bill 241

Relating to police supervision on lands under the supervision of the conservation commission.

Assemblyman Azim asked unanimous consent that **Assembly Amendment 2 to Assembly Bill 241** be returned to the author. Granted.

The question was: Shall the bill be ordered engrossed and read a third time?

Motion carried.

Assemblyman McKay asked unanimous consent that the rules be suspended and that **Assembly Bill 241** be given a third reading. Granted.

The question was: This bill having been read three times, shall the bill pass?

The roll was taken.

The vote follows:

Ayes—Alfonsi, Anderson G. K., Anderson N. C., Atkinson, Azim, Baldus, Bellante, Belting, Blanchard, Boche, Bock, Bolle, Brown, Conradt, Devitt, Doughty, Dueholm, Tregoning, Gee, Gehrmann, Gessert, Groshek, Grover, Hanna, Heinzen, Held, Hephner, Huber, Hutnik, Jahnke, Johnson W. A., Jones, Kafka, Kaufman, Kavanaugh, Kenyon, Kessler, Klicka, Kordus, Kunde, Laper, Lewison, Lipscomb, Lynch, McCann, McCormick, McDougal, McEssy, McKay, Manders, Martin, Mathews, Mato, Merkel, Mertz, Mittness, Molinaro, Nitschke, Nuttelman, Obey, Olson,

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O'Malley, Orlich, Pabst, Packard, Parys, Peloquin, Perala, Quinn, Radcliffe, Riehle, Rogers, Schaeffer, Schroeder, Schwefel, Shabaz, Shurbert, Sricula, Soik, Stalbaum, Steinhilber, Stevenson, Sweda, Thompson, Tobiasz, Uehling, Vanderperren, Van Hollen, Wackett, Warren, Wartinbee, Waters, Weisensel, Wilger, York and Mr. Speaker—96.

Noes—Barbee and Nager—2.

Absent or not voting—Clemens and Johnson L. H.—2.

Motion carried.

Assemblyman McKay asked unanimous consent that the Assembly's action on Assembly Bill 241 be immediately messaged to the Senate. Granted.

PETITIONS

Assembly Petition 146

By Assemblyman Nitschke.

To committee on Excise and Fees.

Assembly Petition 147

By Assemblyman Manders.

To committee on Excise and Fees.

Assembly Petition 148

By Assemblyman Sweda.

To committee on Excise and Fees.

Assembly Petition 149

By Assemblyman Tregoning.

To committee on Excise and Fees.

Assembly Petition 150

By Assemblyman Bock.

To committee on Excise and Fees.

Assembly Petition 151

By Assemblymen Heinzen and Gee.

To committee on Excise and Fees.

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Assembly Petition 152

By Assemblymen Obey and Riehle.
To committee on Excise and Fees.

Assembly Petition 153

By Assemblyman Lewison.
To committee on Excise and Fees.

Assembly Petition 154

By Assemblyman Lewison.
To committee on Excise and Fees.

Assembly Petition 155

By Assemblyman Wackett.
To committee on Excise and Fees.

Assembly Petition 156

By Assemblyman Alfonsi.
To committee on Excise and Fees.

Assembly Petition 157

By Assemblyman G. K. Anderson.
To committee on Excise and Fees.

Assembly Petition 158

By Assemblyman Kunde.
To committee on Excise and Fees.

Assembly Petition 159

By Assemblyman Nuttelman.
To committee on Excise and Fees.

Assembly Petition 160

By Assemblyman Parys.
To committee on Highways.

Assembly Petition 161

By Assemblymen Stevenson and McDougal.
To committee on Excise and Fees.

Assembly Petition 162

By Assemblyman Shurbert.
To committee on Excise and Fees.

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Assembly Petition 163

By Assemblyman Wilger.

To committee on Excise and Fees.

Assembly Petition 164

By Assemblyman Stalbaum.

To committee on Excise and Fees.

Assembly Petition 165

By Assemblyman McDougal.

To committee on Excise and Fees.

COMMUNICATION

The State of Wisconsin
Office of Attorney General
Madison

June 15, 1967.

The Honorable, The Assembly:

By **Assembly Resolution 17**, an opinion is requested as to the effect of **Assembly Bill 217** on programs available for educationally deprived children attending nonpublic schools.

Assembly Bill 217 would designate a federal education assistance fund which is declared to be separate from the funds in the state treasury. Under the terms of the bill, money received by the state under the federal elementary and secondary education act of 1965 (P.L. 89-10), 79 Stats. 27 (1965), 20 U.S.C.A. §241 (a)—241 (1), would not be paid into the state treasury and would not be subject to the laws, rules and regulations governing payments made by the state treasury. Instead, the federal funds would be put in a separate nonlapsible fund. Money in the separate federal educational assistance fund would be appropriated to the state department of public instruction to carry out the purposes of the federal act.

Title I of the federal elementary and secondary education act establishes a program of "financial assistance to local educational agencies for the education of children of low

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income families." Under the program, the United States Commissioner of Education is authorized to make payments to state educational agencies for "basic" and "special incentive" grants to local school districts. Federal grants under Title I are intended to help local school districts establish programs and projects to meet "the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families."

The Act provides that the control of federal aid funds and title to property acquired with such funds "shall be in a public agency . . . and that a public agency will administer such funds and property;" but, the Act also provides that local school districts must "make provision for special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment)" . . . in which educationally deprived children enrolled in private schools may participate.

The federal program is, therefore, designed to make grants available to state educational agencies for distribution to local public school districts according to general distribution criteria established in the federal law. Federal funds which the state agency distributes are to support public school projects and programs designed to meet special needs of children, including those attending nonpublic schools.

In an opinion issued on July 20, 1966, 55 OAG 124, I stated that when Title I federal education aids were received by the state and placed in the general fund, they became subject to Article I, Section 18 of the State Constitution which provides in part:

"* * * nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries."

I further stated that Article I, Section 18 would prohibit the use of such funds to pay the salary of a public school teacher who is sent into a parochial school to teach; but that such aids could be used to support some types of shared time, educational radio and television and mobile education programs which reach eligible nonpublic school students.

My opinion, of course, reflected the existing law regarding the handling of federal aid funds. The law which applied to such funds in 1966, and which still applies, calls

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for the placement of funds received by the state from the federal government in the state treasury or general fund. See secs. 16.54, 20.550 (68), and 20.951 (1), Wis. Stats. Bill 217-A would amend these laws to provide that federal education aids received by the state are *not* to be placed in the state treasury, but rather are to be maintained in a separate fund under state management.

The issue to which I now address myself is the effect of such separate handling on the range of uses to which the funds may be placed.

The portion of Article I, section 18 quoted above is a restriction specifically directed at expenditure of funds "drawn from the treasury." Federal education aids which are not deposited in the state's treasury or general fund, would seem to escape the prohibition. It is true that the funds would come into state possession and would be managed and expended by state officers. Yet the monies would maintain their intact, segregated character. They would not be mixed with state treasury revenues, since the federal law does not require matching on the part of the state. 20 U.S.C.A. §241 (c), 241 (d). Nor would state revenues necessarily be expended in administering the special fund, since federal administrative grants are made available to state agencies. 20 U.S.C.A. §241 (g) (b).

The legal status of the proposed federal education assistance fund is analogous to that of special, separate funds which other state agencies regularly maintain. The University of Wisconsin Board of Regents, for example, accepts and administers private donations without paying such funds into the state treasury. Sec. 36.065, Wis. Stats. These separate accounts, which may or may not be the product of a formal trust, see 47 OAG 124, 126-128 (1958), are controlled only by the limitations placed upon them by their donors. They have been held to be totally outside the scope of state constitutional restrictions on the expenditure of state treasury funds. 47 OAG 124 (1958); *Glendale Development, Inc. v. Board of Regents*, 12 Wis. (2d), 106 NW (2d) 430 (1960), cert. den. 366 U.S. 931, 81 S. Ct. 1652, 6 L.Ed. (2d) 389 (1961).

The proposed federal education assistance fund would, in a sense also be analogous to segregated funds established early in the state's history to accumulate the proceeds from sale of federal lands granted to the state for education purposes. These early "school funds" were mentioned in the

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state's charter, Article X, Section 2, Wisconsin Constitution, and explicit sanction was given to the use of the segregated funds for projects which would be forbidden if state revenues were being employed. Article VIII, Section 10, Wis. Const.; Hurst, *Law and Economic Growth*, 21, 148 (1964).

The distinction between ordinary state revenues and special funds from "outside" sources, usually the federal government or private donors, can, therefore, be traced far back into Wisconsin's history. The special, separate funds have been held not to be subject to constitutional protections directed at ordinary state revenues. Freedom from such restraints was explicitly provided in the state constitution for the land grant funds. In the case of latter day special funds, this freedom has been recognized by the court as a general principle of law.

It is, therefore, my opinion that the proposed federal education assistance fund would not be subject to the Article I, Section 18 rule against expenditures for the benefit of parochial schools. This would broaden the purposes for which the funds may be used, beyond those which were suggested as permissible in 55 OAG 124.

Precisely how much latitude state administrators may have in disbursing the funds for projects that serve the educational needs of nonpublic school students cannot be answered in the abstract. While the Article I, Section 18 ban on expenditures of state funds to benefit parochial schools is probably the most sweeping of all state constitutional provisions relating to religion, it is not the only such restriction. Other portions of the state constitution provide:

"The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; * * *" Article I, Section 18, Constitution.

"The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years; and no sectarian instruction shall be allowed therein." Article X, Section 3, Constitution.

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The provisions apply to all forms of state and local governmental action. It is clear, for example, that "sectarian instruction" may not be given in public schools, no matter who pays for the activity. *State ex rel. Weiss v. District Board of School District No. 8 of City of Edgerton*, 76 Wis. 177, 44 NW 967 (1890). A 1959 opinion of Attorney General John W. Reynolds suggests that the Article I, Section 18 prohibition against laws which give preference to any religious establishments or modes of worship might be violated if public officials were to have authority to decide that students from some parochial schools are eligible for assistance while students from other schools are not. 48 OAG 121, 133 (1959). It is impossible to render an opinion on the effect of the above provisions without knowing the precise mechanics of various assistance plans that may be attempted.

This opinion has not attempted to examine the federal constitutional issues created by state use of federal education aids. This question should be answered by the federal courts. It should be noted that there is a proposal now before the Congress to give individual federal taxpayers standing to test the federal aid act. S. 3, 90th Cong., 1st sess. (1967).

I conclude that **Bill 217-A** would broaden the range of activities which could be supported by federal education aids received by the state under PL. 89-10. If the federal aids were to be maintained in the federal education assistance fund, they would not be subject to the Article I, Section 18 prohibition against benefiting parochial schools with funds drawn from the state treasury. Programs supported with monies in the federal education assistance fund would, however, be subject to other restrictions contained in Article I, Section 18 and Article X, Section 3 of the Wisconsin Constitution.

Sincerely yours,

BRONSON C. LA FOLLETTE,
Attorney General.

Caption: Assembly Bill 217, which would create secs. 20.550 (68) (n) and 20.650 (6), Wis. Stats., providing that federal funds received under the Federal Elementary and Secondary Education Act of 1965 be deposited in a separate account outside the state treasury, would not violate the

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prohibitions contained in Article I, Section 18 of the constitution. Programs supported with monies in the federal education assistance fund would, however, be subject to other restrictions contained in Article I, Section 18 and Article X, Section 3 of the Wisconsin Constitution.

COMMITTEE REPORTS

The committee on Rules reports and recommends:

Assembly Bill —

Enabling cities villages and towns to adopt a supplemental selective retail sales tax for educational purposes, granting rule-making power and making appropriations.

Introduction; Ayes, 8; Noes, 3.

Assembly Bill —

Relating to funding the council for home and family.

Introduction; Ayes, 11; Noes, 1.

Assembly Bill —

Relating to the maximum number of temporary educational certificates which may be granted to persons having training in medicine and surgery

Introduction; Ayes, 11; Noes, 0.

Assembly Bill —

Relating to the regulation and control of sources of radiation.

Introduction; Ayes, 12; Noes, 0.

Assembly Bill —

Relating to the regulation of sale, possession, transfer and use of toxic glue, and providing a penalty.

Introduction; Ayes, 11; Noes, 0.

Assembly Bill —

Relating to the executive secretary of the judicial council and to the administrator of courts.

Introduction; Ayes, 12; Noes, 0.

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Assembly Joint Resolution —

Relating to an interim study of property tax exemptions and the inclusion of lakeshore property in forest crop lands.

Introduction; Ayes, 12; Noes, 0.

Assembly Bill —

Relating to the establishment of branch banks.

Introduction; Ayes, 8; Noes, 2.

Assembly Bill —

Relating to school district debt apportionment.

Introduction; Ayes, 11; Noes, 0.

Assembly Bill —

Relating to filling vacancies in the office of county supervisor in populous counties.

Introduction; Ayes, 11; Noes, 0

Assembly Bill —

Relating to defining a "transfer" and a "preferential transfer" in creditor's actions.

Introduction; Ayes, 12; Noes, 0.

WILLIS J. HUTNIK,
Chairman.

The joint committee on Finance reports and recommends:

Assembly Bill 286

Passage; Ayes, 8; Noes, 2.

BYRON F. WACKETT,
Chairman.

The joint committee on Finance reports and recommends:

Senate Bill 97

Assembly Substitute Amendment 1, adoption; Ayes, 10; Noes, 0 and concurrence; Ayes, 6; Noes, 4.

BYRON F. WACKETT,
Chairman.

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Assemblyman Wackett asked unanimous consent that the rules be suspended and that Senate Bill 97 be withdrawn from the committee report and taken up at this time.

Assemblyman Barbee objected.

Assemblyman Bellante moved that the rules be suspended and that Senate Bill 97 be withdrawn from the committee report and taken up at this time.

The question was: Shall the rules be suspended and Senate Bill 97 be withdrawn from the committee report and taken up at this time?

The roll was taken.

The vote follows:

Ayes—Alfonsi, Anderson G. K., Azim, Bellante, Belting, Blanchard, Boche, Bock, Clemens, Conradt, Devitt, Doughty, Tregoning, Gee, Gehrman, Gessert, Heinzen, Held, Hutnik, Kafka, Kavanaugh, Kenyon, Klicka, Laper, Lewison, McEssy, McKay, Martin, Merkel, Nitschke, Nuttelman, Olson, Packard, Quinn, Schroeder, Schwefel, Shabaz, Shurbert, Soik, Stalbaum, Steinhilber, Thompson, Uehling, Van Hollen, Wackett, Wartinbee, Waters, Weisensel, Wilger, York and Mr. Speaker—51.

Noes—Anderson N. C., Atkinson, Baldus, Barbee, Bolle, Brown, Dueholm, Groshek, Grover, Hanna, Hephner, Huber, Jahnke, Johnson W. A., Jones, Kaufman, Kessler, Kordus, Kunde, Lipscomb, Lynch, McCann, McCormick, McDougal, Manders, Mathews, Mato, Mertz, Mittness, Molinaro, Nager, Obey, O'Malley, Orlich, Pabst, Parys, Peloquin, Perala, Radcliffe, Riehle, Rogers, Schaeffer, Sicula, Stevenson, Sweda, Tobiasz and Vanderperren—47.

Absent or not voting—Johnson L. H. and Warren—2.

Motion failed.

The joint committee on Finance reports and recommends:

Assembly Bill —

Relating to retirement eligibility of employes of the legislature.

Introduction; Ayes, 10; Noes, 0.

BYRON F. WACKETT,
Chairman.

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The committee on Insurance and Banking reports and recommends:

Assembly Bill —

Relating to the measure of damages for bodily injury.
Introduction; Ayes, 8; Noes, 2.

KYLE KENYON,
Chairman.

EXECUTIVE COMMUNICATION

The State of Wisconsin
Executive Office
Madison 53702

June 19, 1967.

To the Honorable, the Assembly:

The following bill, originating in the Assembly, has been approved, signed and deposited in the office of the Secretary of State.

Assembly Bill	Chapter No.	Date Approved
16 -----	47 -----	June 19, 1967

Respectfully submitted,

WARREN P. KNOWLES,
Governor.

Assemblyman McKay asked unanimous consent that the Assembly return to the third order of business. Granted.

MOTION UNDER JOINT RULE 26

Assemblyman Orlich moved adoption of the following certificate, co-sponsored by Senator Kendziorski.

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The State of Wisconsin * * * Citation by the Legislature

Whereas, Msgr. Clemens J. Zych, pastor of St. Adalbert Catholic Church in Milwaukee, will celebrate the 60th anniversary of his ordination on June 25, 1967; and

Whereas, Msgr. Zych, who was born in Poland and brought to Milwaukee when he was 6 months old, enrolled in St. Francis Seminary in 1899, and was ordained in 1907 and has served in the Milwaukee area since that time; now, therefore,

The Members of the Wisconsin Legislature, congratulate Msgr. Clemens J. Zych on the 60th anniversary of his ordination.

The question was: Adoption.

Motion carried.

Assemblyman Orlich asked unanimous consent that the Assembly's action under Joint Rule 26 be immediately messaged to the Senate. Granted.

Assemblyman McKay asked unanimous consent that the Assembly stand recessed until 1:30 P.M. Granted.

12:20 P.M.

RECESS

1:50 P.M.

The Assembly reconvened.

Assemblyman McKay rose to point of order that the hour of 1:20 P.M. had arrived, the time of special order set for Assembly Bill 641.

The chair ruled the point of order well taken.

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SPECIAL ORDER

1:20 P.M.

Assemblyman McKay asked unanimous consent that Assembly Bill 641 be temporarily laid aside. Granted.

Assemblyman McKay rose to point of order that the hour of 1:21 had arrived, the time of special order set for Assembly Bill 98.

The chair ruled the point of order well taken.

SPECIAL ORDER 1:21 O'CLOCK P.M.

Assembly Bill 98

Relating to raising the minimum age for purchase of beer.

The question was: Shall Assembly Amendment 1 be adopted?

Motion carried.

The question was: Shall the bill be ordered engrossed and read a third time?

Assemblyman McEssy moved indefinite postponement.

The question was: Shall the bill be indefinitely postponed?

Assemblyman Nitschke in the chair.

The question was: Shall the bill be indefinitely postponed?

The roll was taken.

The vote follows:

Ayes—Alfonsi, Anderson G. K., Atkinson, Barbee, Bolle, Conradt, Gee, Gehrmann, Groshek, Grover, Hanna, Heinzen, Hephner, Huber, Johnson W. A., Jones, Kafka, Kaufman, Kenyon, Kessler, Kordus, Kunde, Laper, McCormick, McDougal, McEssy, Manders, Mertz, Molinaro, Nitschke, Nuttelman, Obey, Olson, O'Malley, Orlich, Pabst, Parys, Quinn, Riehle, Rogers, Schaeffer, Schwefel, Shurbert, Steinhilber, Stevenson, Sweda, Thompson, Tobiasz, Vanderperren, Wilger and Mr. Speaker—51.

Noes—Anderson N. C., Azim, Baldus, Bellante, Belting, Blanchard, Boche, Bock, Brown, Clemens, Devitt, Doughty, Dueholm, Tregoning, Gessert, Held, Jahnke, Kavanaugh, Klicka, Lewison, Lipscomb, Lynch, McCann, McKay, Martin,

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Mathews, Mato, Merkel, Mittness, Nager, Packard, Peloquin, Perala, Radcliffe, Schroeder, Shabaz, Sicula, Soik, Stalbaum, Uehling, Van Hollen, Wackett, Warren, Wartinbee, Waters, Weisensel and York—47.

Absent or not voting—Hutnik and Johnson L. H.—2.

Motion carried.

Assemblyman Peloquin requested that he be recorded as voting, "Aye" instead of "No." Granted.

Assemblyman Hutnik requested that he be recorded as voting, "No" had he been present. Granted.

Assemblyman McKay rose to point of order that the hour of 1:22 P.M. had arrived, the time of special order set for Assembly Bill 153.

The chair ruled the point of order well taken.

SPECIAL ORDER 1:22 O'CLOCK P.M.

Assembly Bill 153

Relating to identification cards to be used to prove age, granting rule-making authority, making an appropriation, and providing a penalty.

The question was: Shall the bill be ordered engrossed and read a third time?

Assemblymen Obey, Steinhilber, Heinzen, Alfonsi and Grover offered a substitute amendment. Entered.

The question was: Shall Assembly Substitute Amendment 1 be adopted?

Assemblyman Obey offered an amendment. Entered.

The question was: Shall Assembly Amendment 1 to Assembly Substitute Amendment 1 be adopted?

Assemblyman Devitt moved rejection.

The question was: Shall Assembly Amendment 1 to Assembly Substitute Amendment 1 be rejected?

The roll was taken.

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The vote follows:

Ayes—Alfonsi, Belting, Blanchard, Boche, Bock, Devitt, Tregoning, Gee, Gessert, Hanna, Huber, Jahnke, Klicka, Kordus, Lipscomb, Lynch, McCann, McKay, Martin, Mathews, Merkel, Mittness, Molinaro, Nager, Olson, Packard, Riehle, Schaeffer, Schroeder, Shabaz, Soik, Stalbaum, Steinhilber, Van Hollen, Wackett, Waters, Weisensel, Wilger and York—39.

Noes—Anderson G. K., Anderson N. C., Azim, Baldus, Barbee, Bellante, Bolle, Brown, Clemens, Conradt, Doughty, Dueholm, Gehrman, Groshek, Grover, Heinzen, Held, Hephner, Hutnik, Johnson W. A., Jones, Kafka, Kaufman, Kavanaugh, Kenyon, Kessler, Kunde, Laper, Lewison, McCormick, McDougal, McEssy, Manders, Mato, Mertz, Nitschke, Nuttelman, Obey, O'Malley, Orlich, Pabst, Parys, Peloquin, Perala, Quinn, Radcliffe, Rogers, Shurbert, Sicula, Stevenson, Sweda, Thompson, Tobiasz, Uehling, Vanderperren, Warren, Wartinbee and Mr. Speaker—58.

Absent or not voting—Atkinson, Johnson L. H. and Schwefel—3.

Motion failed.

Assemblyman Laper requested that he be recorded as voting, "Aye" instead of "No." Granted.

The question was: Shall Assembly Amendment 1 to Assembly Substitute Amendment 1 be adopted?

The roll was taken.

The vote follows:

Ayes—Anderson N. C., Azim, Barbee, Bock, Bolle, Conradt, Groshek, Grover, Hanna, Johnson W. A., Jones, Kaufman, Kavanaugh, Kenyon, Kordus, Kunde, Laper, Lipscomb, McCormick, McDougal, McEssy, Mertz, Nitschke, Nuttelman, Obey, Orlich, Pabst, Packard, Parys, Radcliffe, Shurbert, Sicula, Sweda and Tobiasz—34.

Noes—Alfonsi, Anderson G. K., Atkinson, Baldus, Bellante, Belting, Blanchard, Boche, Brown, Clemens, Devitt, Doughty, Dueholm, Tregoning, Gee, Gehrman, Gessert, Heinzen, Held, Hephner, Huber, Hutnik, Jahnke, Kafka, Kessler, Klicka, Lewison, Lynch, McCann, McKay, Martin, Mathews, Mato, Merkel, Mittness, Molinaro, Nager, Olson, O'Malley, Peloquin, Perala, Quinn, Riehle, Rogers, Schaeffer, Schroeder, Shabaz, Soik, Stalbaum, Steinhilber, Stevenson, Thompson, Uehling, Vanderperren, Van Hollen, Wackett,

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Warren, Wartinbee, Waters, Weisensel, Wilger, York and Mr. Speaker—63.

Absent or not voting—Johnson L. H., Manders and Schwefel—3.

Motion failed.

Assemblyman McKay offered an amendment. Entered.

The question was: Shall Assembly Amendment 2 to Assembly Substitute Amendment 1 be adopted?

Assemblyman Devitt moved rejection.

The question was: Shall Assembly Amendment 2 to Assembly Substitute Amendment 1 be rejected?

Assemblyman Weisensel asked unanimous consent that Assembly Bill 153 be laid on the table.

Assemblyman Obey objected.

Assemblyman Weisensel moved that Assembly Bill 153 be laid on the table.

The question was: Shall Assembly Bill 153 be laid on the table?

Assemblyman Weisensel withdrew his motion.

The question was: Shall Assembly Amendment 2 to Assembly Substitute Amendment 1 be rejected?

CHIEF CLERK'S CORRECTION

With the approval of the chairman of the committee on Judiciary.

Relating to Assembly Substitute Amendment 2 to Assembly Bill 2—Page 5, line 15: substitute "jurisdiction" for "juriscition".

Page 6, line 19: substitute "committed" for "commited" in both places.

CHIEF CLERK'S CORRECTION

With the approval of the chairman of the committee on Highways.

Relating to: Assembly Substitute Amendment 1, to Senate Bill 82—Page 17, line 20: substitute "issuance" for "issurance".

VISITORS

During today's session, the following visitors honored the Assembly by their presence, and were welcomed by the presiding officer and the members:

Mrs. Wm. Meyer, Mrs. Marcus Meyer, Shirlene and Jacqueline Meyer, Delta, Wisconsin, now on a tour which includes the State Capitol, guests of Assemblyman Gehrman.

Frank Hoffman and Ernest Worth from Wisconsin Rapids, guests of Assemblyman Gee.

Mr. Jack Radcliffe, Strum, Wisconsin, son and guest of Assemblyman Radcliffe.

Don Schroeder, from California, Cousin and guest of Assemblyman Schroeder.

Michael and Deborah Hanna, Milwaukee, son and daughter, respectively, and guests of Assemblyman Hanna.

Mrs. Waterman and Mrs. Clark with fourteen Girl Scouts from Elroy, Wisconsin, guests of Assemblyman Thompson.

Daphne E. Barbee, daughter and guest of Assemblyman Barbee.

Sue Lynn Burnham, a student at the University of Wisconsin, Chetek, Wisconsin, guest of Assemblyman Van Hollen.

Jeff Callison, Janesville, Wis., guest of Assemblyman Mittness.

Mr. and Mrs. Aloysie Halama, Mr. and Mrs. Allen O. Skroch, Independence, Wis., guests of Assemblyman Radcliffe.

June Vasby, Cambridge, Wis., guest of Assemblyman Weisensel.

Mr. and Mrs. Hubert Krause, and daughter, from Watertown, Wis., guests of Assemblyman Wackett.

Michael Beck and John Stalbaum, son of the Assemblyman, from Waterford, guests of Assemblyman Stalbaum.

Sven Sporre from Forsheda, Sweden, an exchange student, guest of Assemblyman McKay.

Carol Clark, Beloit; Pat Newton, Hudson; and Steve Richter, vice-president, Wisconsin Student Association, University of Wisconsin, from Mt. Vernon, N.Y., guests of As-

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semblyman McKay. These visitors were interested in the Highway Safety Program (negative, 21-year-old liquor age).

Paul B. White, Merrimac, Wis., guests of Assemblyman Laper.

Ray Fish, chairman, Town of Geneva, and member of the Walworth County Board, guest of Assemblyman Wilger.

Miss Mary Magee, Shullsburg, Wis., guest of Assemblyman Tregoning.

Veva Corkhill, Dorothy Borchert, Donna Reinhold, Ruth Frazier, Barbara Falk, Ida Probst, Jean Knapton, Ielene Adsit and Donna Duhr, Janesville, Wis., guests of Assemblyman Mittness.

Mrs. Norbert Krause, Mrs. Harvey Manley and Mrs. Donald (Jeanette) Berg, Wilson, Wis., guests of Assemblyman Kenyon.

Robert E. McCann, Colleen McCann, Karen, Kevin and Pat, Menasha, Wis., guests of Assemblymen McCann and Martin.

Lorenz Wesemann, Watertown, Wis., guest of Assemblyman Wackett.

Seventeen members from the Wisconsin Masonic Home, Dousman, accompanied by Mrs. Marion Sayles, Mrs. Joan Murchie, Activity Director, and Mrs. Gertrude Witzel with Roger Jahnke, office manager, guests of Assemblymen Shabaz and Jahnke.

Mr. Charles Kenyon, Tomah, Wisconsin, son and guest of Assemblyman Kenyon.

Paul Behnkie, wife Mary, daughters Helen and Ann and son Thomas, 1821 Carney Avenue, Marinette, Wis., guests of Assemblyman Stevenson.

Ervin Peters and Mrs. Strup, from Washington County, guests of Assemblyman Schroeder.

Patricia O'Neil, 2235 Memorial Drive, Green Bay, Wisconsin, guest of Assemblyman Vanderperren.

Mrs. Mildred Perry, Recording Secretary, Local 9, Office and Professional Workers, 7744 S. North Cape Rd., Franklin, Wis., guest of Assemblyman Devitt.

Mr. and Mrs. Rudolph Demshar, Mr. and Mrs. Chester H. Stuert and daughters Nancy and Jean, Milwaukee, guests of Assemblymen Jones and Tobiasz.

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Assemblyman McDougal requested that the Assembly adjourn today in honor of the 95th birthday of Mr. C. E. Jones from Antigo, Wis., the gateway to "Paradise," who, in addition to being a very good friend of Assemblyman McDougal, is also the father of Assemblyman Jones.

Assemblyman McKay moved that the Assembly adjourn to 9:30 A.M. Wednesday, June 21, 1967.
Motion carried.