

JOURNAL OF THE ASSEMBLY (August 8, 1973)

STATE OF WISCONSIN

# Assembly Journal

Eighty-First Regular Session

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WEDNESDAY, August 8, 1973.

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

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## AMENDMENTS OFFERED

Assembly amendment 1 to Senate Bill 203 offered by Representative Sicula.

Assembly amendment 1 to Assembly Bill 1059 offered by Representative Sicula.

Assembly amendment 1 to assembly substitute amendment 1 to Assembly Bill 886 offered by Joint Committee on Finance.

Assembly substitute amendment 1 to Assembly Bill 1045 offered by Committee on Health and Social Services.

Assembly amendment 1 to Assembly Bill 765 offered by Committee on Health and Social Services.

Assembly substitute amendment 1 to Assembly Bill 735 offered by Committee on Health and Social Services.

Assembly substitute amendment 1 to Assembly Bill 61 offered by Committee on Health and Social Services.

Assembly substitute amendment 1 to Assembly Bill 298 offered by Committee on Health and Social Services.

Assembly amendment 1 to Assembly Bill 360 offered by Committee on Health and Social Services.

Assembly amendment 1 to Assembly Bill 616 offered by Representative Rogers.

Assembly amendment 1 to Assembly Bill 1201 offered by Representative Barbee.

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**Assembly amendment 1 to Assembly Bill 1096** offered by Representative Dorff.

**Assembly substitute amendment 1 to Assembly Bill 1174** offered by Representative Lewis.

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**INTRODUCTION AND REFERENCE OF RESOLUTIONS**

Read and referred:

**Assembly Resolution 45**

Relating to requesting the department of natural resources to establish rules prohibiting certain waste disposal sites and facilities.

Whereas, expanding urbanization and increasing population create demands for increasing numbers of solid waste disposal sites and facilities; and

Whereas, utilization of open land necessary to meet these demands, without proper land use planning, imperils the preservation of aesthetically and ecologically valuable land; and

Whereas, the need to preserve and maintain such lands in areas with substantial population demands rational land use decisions relating to location of solid waste disposal sites and facilities; now, therefore, be it

Resolved by the assembly, That the department of natural resources is requested to establish, as part of its licensing rules promulgated under section 144.44 of the statutes, provisions which prohibit the licensing of solid waste disposal sites or facilities on land, in counties having a population of 100,000 or more, that the department determines to be of extraordinary aesthetic or ecological value; and, be it further

Resolved, That a duly attested copy of this resolution be transmitted to the department of natural resources for appropriate action.

By Representative ROGERS.

To committee on Environmental Quality.

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**INTRODUCTION AND REFERENCE OF RESOLUTIONS**

Read and referred:

**Assembly Bill 1232**

Prohibiting the use of lie detector tests by employers and providing a penalty.

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By Representative NAGER.

To committee on Labor.

**Assembly Bill 1233**

Relating to current use valuation of agricultural and conservancy zones, creating a land appeals and review board, and providing appropriations.

By Representatives ANDERSON, VANDERPERREN, O'MALLEY, DAY, OBERLE, MITTNESS, BALDUS and MUNTZ; co-sponsored by Senator THOMPSON.

To Joint Survey Committee on Tax Exemptions.

**Assembly Bill 1234**

Relating to visual showing of emergency public service announcements on television stations for observance by the deaf.

By Representative EARLY.

To committee on State Affairs.

**Assembly Bill 1235**

Relating to exemption of snowmobiles owned by a person for use on his own lands from normal registration fees and providing a penalty.

By Representative EARLY.

To committee on Natural Resources.

**Assembly Bill 1236**

Relating to landowner's hunting licenses and providing a penalty.

By Representative EARLY.

To committee on Natural Resources.

**Assembly Bill 1237**

Relating to authorizing possession and sale of mounted collections of wild game.

By Representative EARLY.

To committee on Natural Resources.

**Assembly Bill 1238**

Relating to exemption from registration for snowmobiles used as implements of husbandry.

By Representative EARLY.

To committee on Natural Resources.

**Assembly Bill 1239**

Relating to determination of eligibility for and amounts of veterans' loans.

By Representative ROGERS.

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To committee on Veterans and Military Affairs.

**Assembly Bill 1240**

Relating to increasing the maximum recovery in tort actions and restricting governmental immunity.

By Representative BARBEE.

To committee on Judiciary.

**Assembly Bill 1241**

Relating to a fermented malt beverages tax credit for small brewers doing business in this state.

By Representatives WILLKOM, SCHRICKER, CONRADT, LOOBY, BALDUS, TREGONING, TOBIASZ, MC ESSY, SCHROEDER, AZIM and BOLLE; co-sponsored by Senators BABLITCH, PELOQUIN, THENO and ROSELEIP.

To committee on Excise and Fees.

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**PETITIONS**

**Assembly Petition 116**

By Representative SENSENBRENNER.

To Joint Committee on Finance.

**Assembly Petition 117**

By Representative LEWIS.

To committee on Natural Resources.

**Assembly Petition 118**

By Representative QUINN.

To Joint Committee on Finance.

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**COMMUNICATIONS**

The State of Wisconsin  
Department of Justice  
Madison 53702

August 1, 1973

Mr. Thomas S. Hanson  
Chief Clerk, Wisconsin Assembly  
State Capitol  
Madison, Wisconsin 53702

Dear Mr. Hanson:

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You have recently forwarded to me **Assembly Resolution 28** requesting my opinion as to whether Assembly Bill 221 (1973) is superseded by applicable federal air quality rules. Assembly Bill 221, if enacted, would authorize cities, villages and towns to burn wood within the confines of its own dumping or disposal grounds notwithstanding any law, or rule adopted pursuant to law, to the contrary. As such, it would repeal sec. NR 154.10 (1) (f), Wis. Adm. Code, which provides as follows:

“NR 154.10 Limitations on open burning. (1) Open burning is prohibited with the following exceptions:”

“...”

“(f) Burning at rural or isolated solid waste disposal sites outside of the Southeast Wisconsin Intrastate AQCR that serve less than 2,500 people and are licensed to burn waste under section NR 151.18 of the solid waste disposal standards, or burning of special waste where permits are obtained from both the air pollution control section and the solid waste disposal section of the department.”

“...”

“(h) Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-ways outside of the Southeast Wisconsin Intrastate AQCR.”

“(i) Burning of trees, wood, brush, or demolitions materials (excluding asphaltic, or rubber materials) by such methods approved by the department.”

Under the above-quoted provisions of the Wisconsin Administrative Code, which were adopted by the Wisconsin Department of Natural Resources pursuant to ch. 144, Wis. Stats., the burning of wood at municipal dumps or disposal grounds is currently prohibited in the Southeast Wisconsin Intrastate Air Quality Control Region (AQCR),\* unless it is done pursuant to a method approved by the Department.

Section NR 154.10, Wis. Adm. Code, was adopted as part of a state implementation plan submitted to the Federal Environmental Protection Agency as required under sec. 110 (a) of the Federal Clean Air Act of 1970 (P.L. 91-604, 42 U.S.C. 1857 et. seq.), and was approved by the Administrator of the Environmental Protection Agency under sec. 110 (a) (2).

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Because sec. NR 154.10, Wis. Adm. Code, was adopted as an integral part of an approved state implementation plan, sec. 116 of the Federal Clean Air Act constitutes a direct limitation on the power of the state or its political subdivisions with respect to alterations or additions to that administrative regulation. The relevant parts of sec. 116 are as follows:

“ . . . Nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan . . . such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan. . .” (Emphasis added)

Section 116 demonstrates a clear Congressional intent to preempt state and local regulation to the extent such regulation is less stringent than that required under an approved state implementation plan. Huron Portland Cement Co. v. City of Detroit (1960), 362 U.S. 440, 4 L.ed. 2d 852, 80 S.Ct. 813; Washington v. General Motors. (1972), 406 U.S. 109, 31 L.ed. 2d 727, 732, 92 S.Ct. 1456, 4 ERC 1007, 1009. Assuming the Clean Air Act of 1970 is constitutional, Congress has the authority to make such a law pre-empting the states under Art. VI of the United States Constitution, which provides that the Constitution and laws of the United States shall be the supreme law of the land. The question of federal pre-emption under the Clean Air Act of 1970 has already been before the United States Supreme Court in Washington v. General Motors, *supra*, where the court found pre-emption to exist under certain of its provisions. Idem.

The Clean Air Act also contains a provision to the effect that if any state consistently fails to enforce a requirement of an approved implementation plan, the Environmental Protection Agency may, after thirty days notice, take over the enforcement of that requirement within the state. Section 113, Clean Air Act of 1970.

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Assembly Bill 221 is clearly less stringent than the requirements for burning wood under sec. NR 154.10, Wis Adm. Code, which was adopted as part of Wisconsin's state implementation plan. I must therefore conclude that Assembly Bill 221, if enacted, would be superseded under the applicable provisions of the Clean Air Act of 1970.

Sincerely yours,  
**ROBERT W. WARREN,**  
Attorney General.

**CAPTION:**

Assembly Bill 221, if enacted, would be superseded under the Federal Clean Air Act of 1970.

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\* The Southeast Wisconsin Intrastate AQCR is defined and described in sec. NR 155.02 (2) (b) 2., Wis. Adm. Code

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**COMMUNICATION**

Department of State  
Madison, Wisconsin 53702

August 8, 1973

**To Whom It May Concern:**

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

Bill, Jt. Res. or Res. No.	Chapter No.	Publication date
Assembly Bill 1183	77	July 31, 1973
Assembly Bill 1184	78	July 31, 1973
Assembly Bill 1209	79	July 31, 1973
Assembly Bill 200	80	August 2, 1973
Assembly Bill 258	81	August 2, 1973
Assembly Bill 491	82	August 2, 1973
Assembly Bill 525	83	August 2, 1973
Assembly Bill 1203	84	August 2, 1973
Assembly Bill 583	86	August 3, 1973
Assembly Bill 584	87	August 3, 1973
Assembly Bill 300	90	August 4, 1973
Assembly Bill 7	91	August 8, 1973
Assembly Bill 8	92	August 8, 1973
Assembly Bill 148	93	August 8, 1973

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Assembly Bill 252 ----- 94 ----- August 8, 1973

Respectfully submitted,  
ROBERT C. ZIMMERMAN,  
Secretary of State.

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SPEAKER'S APPOINTMENTS

Wisconsin Legislature  
Assembly Chambers  
Madison  
53702

July 31, 1973

Pursuant to the authority vested in me under **Senate Joint Resolution 77**, I hereby appoint the following representatives to the Special Joint Committee to study ways to increase legislative input into and increased efficiency in the budgetary process, this committee to report to the legislature its recommendations prior to January 29, 1974:

- Representative Dennis Conta, Milwaukee (D-District 25)
- Representative Gary K. Johnson, Beloit (D-District 45)
- Representative R. Michael Ferrall, Racine (D-District 62)
- Representative Kenneth Merkel, Brookfield (R-District 99)
- Representative Delmar DeLong, Clinton (R-District 44)

NORMAN C. ANDERSON,  
Speaker

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EXECUTIVE COMMUNICATIONS

To the Honorable, the Assembly:

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

Assembly Bill	Chapter No.	Date Approved
1183 -----	77 -----	July 30, 1973
1184 -----	78 -----	July 30, 1973
1209 -----	79 -----	July 30, 1973
200 -----	80 -----	July 30, 1973



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258	----- 81	----- July 30, 1973
491	----- 82	----- July 30, 1973
525	----- 83	----- July 30, 1973
1203	----- 84	----- July 30, 1973
583	----- 86	----- August 1, 1973
584	----- 87	----- August 1, 1973
300	----- 90	----- August 2, 1973
7	----- 91	----- August 1, 1973
8	----- 92	----- August 1, 1973
148	----- 93	----- August 1, 1973
252	----- 94	----- August 1, 1973
353	----- 95	----- August 6, 1973
710	----- 96	----- August 6, 1973
798	----- 97	----- August 6, 1973
924	----- 98	----- August 6, 1973
537	----- 102	----- August 6, 1973
1135	----- 103	----- August 6, 1973
222	----- 104	----- August 6, 1973
383	----- 105	----- August 6, 1973
773	----- 106	----- August 6, 1973

Sincerely,  
**PATRICK J. LUCEY,**  
 Governor.

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### GOVERNOR'S VETO MESSAGES

August 2, 1973

To the Honorable, the Members of the Assembly:

I am returning **Assembly Bill 300** with my partial approval.

The State Constitution empowers the Governor to approve appropriation bills in whole or in part. The part approved shall become law, and the part objected to shall be returned in the same manner as other bills. I believe this to be a very good budget bill, achieved through long hours of executive and legislative review, extensive debate and, finally, compromise. I have exercised the partial veto in several instances to make the technical changes necessary to improve the administration of the budget and correct errors. I have vetoed some dollar amounts in instances where I have concluded that there is not sufficient justification for the appropriation of state funds. I have vetoed substantive items with extreme caution, in accord with the spirit of the budgetary compromise. I believe these actions to be necessary and consistent

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with the cause of efficient and effective government, the protection of the public interest, and the preservation of the fiscal integrity of the state.

### GENERAL GOVERNMENT

Code of Ethics - Public Disclosure: The creation of a Code of Ethics for public officials is one of the most important accomplishments in the 1973-75 state budget; unfortunately, a provision for full public disclosure was omitted from the final version adopted by the conference committee.

I believe that public disclosure is a necessity for this ethics proposal to be effective. Since the procedures established for the Board on Ethics do not commence without a verified complaint, the public must receive information upon which to base any justification for filing such a complaint. The public's right-to know demands the full and complete disclosure of financial interests.

Therefore, I have deleted certain provisions in Section 1e so that the financial statements previously required for submittal on a confidential basis to the ethics board will also be filed in the Secretary of State's office as public documents open to full and complete public scrutiny. With this requirement, the Code of Ethics enacted by the Wisconsin Legislature will be the strongest, most comprehensive law of its kind in the United States.

Ethics Board (Technical Veto): Section 552g of the budget bill contains a mistaken cross-reference to "section 15.56 of the statutes as created by this act." There is no section 15.56 of the statutes created by the bill and the correct reference should be 15.62. I have deleted the incorrect cross-reference.

Elected Officials Retirement Improvement Costs: The budget bill contains \$690,000 GPR under s.20.855(9)(a) for "purposes of funding any legislation enacted during the 1973 session of the Legislature affecting retirement benefit changes for state elected officials." I have vetoed this appropriation in the belief that any additional retirement improvements and associated costs should be subject to public hearing and legislative debate. There are generous pay increases for elected officials in the budget bill. These pay increases in themselves sharply improve retirement benefits for those public officials who become eligible in the future. To provide funding for an additional program we do not yet know the substance of would circumvent the procedures of all public discussion on the merits.

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**Family Environment and Resource Council:** Sections 5t, 142m, 301m, 486e, 486m, 486s, 554m, and 561(13) recreate the Council for Home and Family under a new agency title, provide it with program revenues from marriage license fees, and authorize counties to establish county councils on home life and family environment. The new council would have essentially the same membership--and the same powers and duties--as the repealed Council for Home and Family. I believe that much work and study needs to be done concerning the causes of family disintegration, the effects of divorce on public welfare costs and possible new approaches to the preservation of marital stability. I do not believe, however, that a new council with the same thrust as the old will be very productive. The Council for Home and Family has contributed very little to family life in this state during its existence and has established a record of wasteful spending and internal dissension. It is a poor foundation on which to build. I believe a new direction is necessary. In conjunction with my veto of the provisions creating the Family Environment and Resources Council, I am requesting that the committee established in this budget to study welfare reform for Wisconsin examine the issue of family stability so that we may have meaningful recommendations to deal with the problems facing the family in today's society.

**Aids to Community Action Agencies:** Section 128 of the budget bill provides \$1.6 million GPR for community action agencies to make up for federal cutbacks, in the event they materialize. Under section 128 the Board on Government Operations is required to approve, at its September, 1973 meeting, an overall expenditure plan prepared by the Department of Local Affairs and Development for the distribution of these aids. I recommended and have approved the \$1.6 million appropriation, but I have vetoed the requirement that the Board on Government Operations act on this issue at its September, 1973 meeting. I did so because there is a possibility that OEO funding for community action agencies could be extended by Congress for one additional fiscal year and that the \$1.6 million in supplemental interim state funding would not be needed in fiscal year 1973-74. The uncertainty of developments in Washington is such that the September date might be premature and a statutorily required approval at that time could force an unwise fiscal decision by the state.

**Local Assessment Cost Sharing:** Section 316 of the bill provides for a local assessment cost sharing program whereby the state would pay 50% of the cost of city, village and town assessor

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operations certified by the Department of Revenue. I have deleted the 50% aid program for municipalities because it would create a serious disincentive to progress toward a county assessor system across the state and reduction in the number of local assessment districts. The budget provides 75% state aid for county assessor operations and changes from 2/3 to 60% the percentage of the county board required to approve such a system. These two factors should provide an incentive for Wisconsin counties to move to professional property assessments at the county level. The 50% aid program could work against the newly passed incentives.

Limitations on Localities' 1973 Property Tax Levies (Technical Veto): Sections 303, 307, 310, 311, 339 and 385e provide for a one-time cost control on 1973 local government expenditures. I have vetoed the following portions of those sections to facilitate their administration in an equitable manner:

- a) The provision that would apply the population factor to only one of the two steps of the limitation. A veto will allow the Department of Revenue to interpret the law in a way to apply the population factor to both steps of the formula. The population factor for fast growing areas is needed to keep the program from having severe budget implications for some municipalities.
- b) The provision that the Department of Revenue determines the amount of budget and levy increases allowable for each locality by July 20, 1973 and the provision that appeals be made by August 20, 1973. The department should set dates administratively to handle the matter in that the July 20 date has passed and the August 20 date cannot be met.
- c) The provision in Section 385e which requires municipalities to publish their levy and the levies of other units they will collect. Since the levies of other units are often certified late in the year, especially counties, the provision if enacted would constrain the time available more than necessary.

Law Enforcement Aid Program: Section 396e of the bill creates a program of state aid for local law enforcement costs, which would be distributed according to a specified formula. Population, a factor in the formula, is defined as the number of residents as "last certified" by the Department of Administration; valuation is another factor. However, at the time the aid will be distributed, the population data available will be one year more current than the valuation information. I have deleted the word "last" to allow the

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use of consistent data in the formula. Using information from different years in the formula would result in inaccurate measures of tax base and might inflate the costs above the \$9.9 million estimate.

### ENVIRONMENT AND TRANSPORTATION

Milwaukee County Air Pollution Control Program: Section 546 of the bill requires the state to contract for the services and facilities of the Milwaukee County Air Pollution Program. Committing the state to a contract without sufficient examination of whether such an arrangement will work poses several problems. These problems can only be resolved by allowing sufficient time for both Department of Natural Resources and county officials to explore the merits of various organizational arrangements, including a contractual one. For this reason, I have deleted this provision from the bill.

Highway Bonding: Section 149m of the bill creates a new \$25 million highway bonding program which is intended to alleviate the serious revenue shortage facing the Department of Transportation. At the same time, another provision requires the department to return to the Governor and the Legislature with a revenue study and recommendations for the annual review bill.

The bonding provision is expedient in the short-run but aggravates the long-term financing problems for Wisconsin's transportation system. From a cash-flow standpoint, the bonding revenue would merely flow into construction and the department's already strained user-fee revenues would have to absorb the over \$2 million annually in additional debt service costs.

In anticipation of a meaningful solution of transportation revenues during the annual review, I have partially vetoed the highway bond authorization. The \$5 million portion of the bond authorization which has been retained is intended to offset a reduction of approximately \$4 million in 1973-74 "bread and butter" road funds which resulted when the proposed freeze on highway aids was lifted by the Legislature.

### EDUCATION

Arts Board: The budget bill contains provisions creating an Arts Board to foster artistic and cultural activities in the state. Although I would have preferred a unified arts and humanities board, the establishment of the Arts Board is a significant step. There are two

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provisions of the language, however, which I believe to be undesirable. The first would require the Arts Board to name six specific statutory advisory councils; the second would require the Board to submit all grant requests in excess of \$1,000 to an advisory council for review and recommendation. Although these ideas are basically sound, the Board has authority under s. 15.04(3) of the statutes to create advisory bodies, and should retain the authority to revise the councils as necessary to respond to changing needs. Similarly, the procedures for review of grant requests should be established by action of the board rather than by statute. I have thus deleted these provisions as they appear in Sections 21m and 211 of the bill.

U.W. User Fee Policy Study: Section 547e calls for a user fee policy study to be conducted by the University with a report and recommendations to the Governor and Legislature at the time of the annual review. This requirement results from my May 1972 directive that all state agencies examine the potential application of user fees. Subsequent to that directive, the Department of Administration reviewed University fee schedules. It recommended that the U.W. budget be reduced by \$1.5 million and that a noninstructional user fee study be completed for the newly merged system. The \$1.5 million figure was later reduced to \$1.0 million.

This study requirement in the budget bill was changed by the Legislature to read "Increases in user fees directly attributable to reductions in the 1974-75 general purpose revenue subsidy for noninstructional activities may apply to faculty, administrators and to other university personnel, but shall not apply to students." I have deleted paragraph (2) of section 547e to allow results of the study to be reported before determinations as to specific application are made. This is in keeping with my earlier directive that all potential applications of user fees be examined.

Executive Salary Plan: Because of a possible conflict in not differentiating between academic and administrative directors and associate directors in the executive salary plan language, it is necessary to delete the words "director" and "associate director" from Section 152, 20.923(5) so that the University of Wisconsin System can retain and recruit qualified personnel for academic directorships and academic associate directorships. The original intent of this section was not to include both academic and administrative directors and associate directors in the same category, since the former were considered more appropriately to be faculty positions.

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Presently, there are 12 persons classified as directors (primarily medical doctors) who are paid more than the maximum provided by this section. Academic directors, in most instances, are comparable to deans, who were excluded from this section. It is my intention to develop clarifying language for this section to differentiate between academic and administrative directors. This language will be prepared for introduction during the 1974 annual review session.

Downer Woods Preservation: Section 172m of the bill provides for the preservation and enhancement of the area known as the "Downer Woods" on the University of Wisconsin-Milwaukee campus. I agree with the purpose and legislative findings of this provision. I have deleted the lengthy legal description of the property, but have left the necessary reference to acreage.

U.W.-Green Bay Physical Education Building: Section 537m contains \$3,357,100 GPR for a physical education building at the University of Wisconsin at Green Bay. I have vetoed the building from the 1973-75 state building program because I feel that the state should not use general purpose revenue to totally fund an athletic facility which is not necessary for instructional purposes or for accommodating the recreational needs of a large, on-campus population. Such a building should be financed partly by program revenues. Deletion of the Green Bay facility is not inconsistent with approval of the scaled down U.W.-Milwaukee physical education facility because the Milwaukee campus has an academic program in physical education and a resident student population. U.W.-Green Bay does not have an academic program in physical education as do many of the other campuses, nor does it have a large student population living on campus. I intend, however, to support the release of advance planning funds for this facility during the 1973-75 biennium.

Medical College of Wisconsin Study: Section 556y calls for a study of certain aspects of the Medical College of Wisconsin. Among these is a provision relating to hospital affiliations of the Medical College, Inc., in Milwaukee and Madison. I have deleted references to the cities of Milwaukee and Madison, so as to leave options open for study of hospital affiliations wherever deemed appropriate.

Wisconsin Higher Education Grants: The Higher Educational Aids Board has historically had rule-making authority concerning the Wisconsin Higher Education Grants program (WHEG) even

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though WHEG funds have heretofore been appropriated and disbursed through the budget of the UW System and the Board of Vocational, Technical and Adult Education. This financial aid system had a number of program deficiencies which are eliminated, at least in part, in the 1973-75 executive budget bill. The budget bill places the WHEG appropriation within the Higher Educational Aids Board budget, retains HEAB rule-making authority over the program and establishes it as a statewide grant program based on financial need for resident students attending accredited institutions of higher education in Wisconsin. The effect of the budget bill is to provide an administrative framework for the WHEG program which is more consistent with sound management concepts. In order to clarify HEAB authority to administer the program and to give the Board necessary flexibility to improve its administration, a portion of Section 196s restricting the Board to making grants based on previous criteria and policies has been vetoed.

Department of Public Instruction: Sections 5x and 437s of the 1973-75 executive budget bill authorize the State Superintendent to appoint one additional unclassified professional assistant position within the Department of Public Instruction. I feel that the role and responsibilities of the position have not been defined, and its creation is inconsistent with our general productivity policy. I thus have vetoed Sections 5x and 437s of the executive budget bill.

School Finance Study: Section 550d of the 1973-75 executive budget bill authorizes the Education Committee of the Assembly and the Health, Education and Welfare Committee of the Senate to jointly study the effects and the desirability of the general school aid proposal contained in the budget bill and other related matters and to submit their findings and recommendations to the 1975 Legislature by January 31, 1975. No issue in the 1973-75 budget bill has received more attention and critical evaluation than the concept of power equalization recommended by the Task Force on Educational Finance and Property Tax Reform and contained in the general school aid proposal. This concept has withstood the test of critical review and represents, in my opinion, the greatest advance in educational finance in Wisconsin since 1949. The full impact of this reform will not be felt for a number of years; further study at this time would appear premature. I do not feel that the granting of specific legislative authority within the budget bill is justified. The Legislature is of course free to establish committees



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and conduct studies without budgetary authorization. Section 550d of the executive budget bill is therefore unnecessary and has been vetoed.

### HEALTH AND SOCIAL SERVICES

Juvenile Allowances: Section 222 of the budget bill was intended to implement a 50c per week allowance increase for juveniles in state juvenile correctional facilities by amending s. 46.064 of the statutes. However, a section was erroneously omitted in the revision which would have continued authority for the Department of Health and Social Services to pay allowances to patients in state mental hospitals. In the interest of preserving the current allowance, I am vetoing Section 222, with the understanding that a correct revision of 46.064 will be included in the annual budget review in January.

Treatment Plan for Institutional Care of Children: Section 233m creates s. 48.525 of the statute which contains a provision to establish a child placement review program under the authority of the Department of Health and Social Services. The proposed review procedures are designed to address a number of major problems that have been identified in the present system of child welfare services.

The intent of s. 48.525(4) was that the placement of children be carefully evaluated every six months after initial placement, not that placement be limited to one additional six month period after initial placement. The language in s. 48.525(4) is too restrictive regarding one additional six month length of stay and does not follow the intent of the evaluation concept. Thus, it has been deleted.

In addition, according to statutory construction and the definitions contained in Chapter 48 of the statutes, the word "agency" is defined to include the Department of Health and Social Services. Section 48.525(1) establishes the limitations on membership of the three person placement review team, but excludes any agency personnel. The intent of the section was not to prohibit department personnel in general from participating in the review, but rather to exclude persons connected with the particular facility program under review. I am therefore deleting the word "agency" so that the department can appoint its members to the review committees under s. 48.525.

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**State Supplement to Federal Supplemental Security Income Program:** In section 242m, reference is made to a law (PL 92-603) which has now been superseded by PL 93-66. In any case, the reference to the federal law is not needed because the state is required to follow federal guidelines. I have therefore deleted the reference to PL 92-603 in Section 242m.

**Special Need Payments:** Section 247 of the budget bill contains provision for special need allowances for the AFDC category in order to provide aid for fuel and utility supplementation and food. These items comprise a significant proportion of the current special needs program. The allowances are to be based on uniform guidelines developed by the Department of Health and Social Services, to insure that the aids are granted equally throughout the state. There is also a provision in the budget bill that such payments be made only in the form of vendor payments. This provision may well result in a loss of federal reimbursement, since the federal government limits state use of such payments to 10% of the cases per month including protective payee cases.

The budget bill increased federal funding in the AFDC program on the assumption that the department would control vendor payments to the federally allowable maximum. Over \$7.2 million dollars in federal revenue was added to the department's budget--with a resultant savings in GPR of over \$6.2 million--in the expectation of effective vendor payment control. Mandating vendor payments for all special needs payments would not allow the expected influx of these federal dollars. The department should have the flexibility to determine in what situations vendor payments are necessary for the special need allowances. I have therefore deleted the mandatory vendor payment item in Section 247 of the budget bill.

**Emergency Assistance Payments:** Section 247m limits emergency assistance payments to situations arising out of fire, flood, tornado, or other major disaster, or for major appliance replacement, and is only available for the AFDC category because that is the only categorical aid group for which federal reimbursement is available. The language in Section 49.19(12) would require personal verification by an agency representative before payments can be made. This could result in undue hardships based on the limited and strict eligibility requirements to receive such aid in s. 49.19(12). A family that suffers a fire which destroys their belongings, for example, needs aid immediately. Verification that an emergency did in fact exist can take place more quickly and

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just as effectively by a phone call to the fire department for example, and would be administratively less cumbersome than mandated personal visits. I have therefore deleted the items relating to personal visits by agency representatives.

State Colony Chargebacks to Counties: The budget bill repeals s.51.08, which is the statutory provision for chargebacks to counties for care in state hospitals and colonies, as of January 1, 1974. Other sections of the budget bill (sections 282m, 295 and 296) provide a mechanism for county payment of 40% of costs in state hospitals. No similar provisions, however, are included for a mechanism to provide county payment of a share of colony costs.

The date for state pick-up of county costs for mental health services is January 1, 1975, and all indications are that the Legislature intended to have the state pick-up the county portion of colony costs on the same date. The repeal of s. 51.08 as of January 1, 1974, as contained in the budget bill, would result, however, in state pick-up of the county portion of colony costs as of that date. In order to continue the chargebacks for colony care until January 1, 1975, as intended, I have deleted portions of Section 280 and Section 296.

Limitation on Placement of Children in State and County Hospitals: Section 287 of the budget bill creates s. 51.216 of the statutes which provides for an independent review of all children admitted to state and county hospitals within 60 days of admission. A similar provision concerning all children in custody of the department or county agencies, who are placed in any kind of institution, is included in section 233m of the bill creating 48.525 of the statutes. This provision is much broader in coverage and more specific in outlining the criteria for admission or continuing care in an institution. It is not, however, completely consistent with 51.216. Section 51.216 states "notwithstanding any other statute" there must be a review under the provisions of 51.216; therefore it would not be clear how the provisions of 48.525 would be affected by this provision. For these reasons Section 287 has been deleted.

Joint County Sponsorship of Unified Mental Health Services Board: Under present statutes, s. 51.42(3)(c) provides that where two or more counties sponsor a unified mental health services board, they enter into a specific contract to sponsor such a board before the department will approve a grant in aid. The repeal of this section was incorporated in the bill in section 293m and as far

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as can be ascertained, this repeal was erroneously included in draft material for the budget bill. I have thus deleted this section as a technical matter.

**Purchase of Service Payment Language:** Section 541k of the bill specifically provides for payment of the state share of federal purchase of service by day service programs to the developmentally disabled from the s. 20.435(2)(c) appropriation. Day service programs serve a population of which approximately 50% are developmentally disabled and 50% are mentally ill or alcoholics. Approximately 80% of day service clients are eligible for federal purchase of service reimbursement. In other words, roughly 40% of day service costs are for service to the non-developmentally disabled who are eligible for federal purchase of service reimbursement.

The language for the appropriation 20.435(2)(b), which is for mental health services, and 20.435(2)(c), which is for development disability services, is identical with regard to providing for expenditures for purchase of services. However, section 541k provides very specific language granting authority for expenditures for the state share of federal purchase of service programs for the developmentally disabled out of the (2) (c) appropriation.

The specificity of the language in Section 541k could be interpreted as excluding state payment of its share of the mental health and alcoholism purchase of service program costs from the s. 20.435(2)(b) appropriation. The intent of the budget was to provide continued funds for the state share of purchase of service programs to all mentally handicapped, including the developmentally disabled, mentally ill, alcoholics and others.

In addition, Section 541k cross references to s. 49.51(3), which requires all county purchase of service programs to be contracted for by the county welfare department. This requirement is in direct opposition to the intent of s. 51.42 and s. 51.437 which gives community boards the authority to contract for a full range of services. I have therefore deleted Section 541k.

**State Aid Payments-Adult Categories:** Three sections of the budget bill eliminate authority for the Department of Health and Social Services to continue to make public assistance payments to Old Age, Blind, and Disabled Aid recipients in public or private institutions. In order to conform with the requirements of the Social Security Amendments of 1972, these cases will shift over to the medical assistance program on January 1, 1974, but until then a \$9

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monthly allowance for personal items and clothing can continue from the public assistance program. The intent of the section 541m was to provide these payments to persons in private and public institutions which meet state licensing standards, but only the words "private institution" are contained in the section. This would eliminate all such \$9 payments for clothing and personal items to persons in skilled nursing homes and intermediate care facilities. These persons do not have other income and are in need of this allowance. My veto of the word "private" in Section 541m allows monthly payments to continue to eligible persons in both private and public institutions until the federal law takes effect in January, 1974.

Wisconsin Child Center Select Committee: The future role of the Wisconsin Child Center at Sparta has been debated for two decades. Various studies have recommended its closing, movement to another location, or remodeling. In the budget bill, funding for continued operation of the Child Center was approved for a budgeted daily capacity of 90 children. Section 542v establishes a special study committee on the Wisconsin Child Center which would have nine members, three from the senate, three from the assembly, and three appointed by the Governor. The Governor's candidates are to be appointed with the advice and consent of the Senate, according to Section 542v.

Appointment of the Governor's nominees to this committee only with advice and consent of the Senate is inconsistent with other special study committees established in the budget, including the select committee on health and social services. The chief executive should have the flexibility to appoint his own choices to this study committee without any special review by the Senate. The requirement for Senate confirmation has thus been deleted from the bill.

Vocational Rehabilitation Matching Funds: Section 543m was drafted to implement a decision to withhold GPR from the Division of Vocational Rehabilitation of the Department of Health and Social Services in excess of the amount needed to match available federal funds on a 20% state-80% federal basis, since federal funds had been reduced. Since that time, a decision has been made to support vocational rehabilitation case services at the requested level by replacing the lost federal funds with GPR. It is therefore no longer necessary that the state withhold GPR intended to match lost federal funds and I have vetoed Section 543m.

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### Select Committee on Health and Social Services Reporting

**Date:** Section 553m of the bill established a select committee to review the desirability and feasibility of reorganizing the Department of Health and Social Services, the welfare reform proposals contained in section 543 of the budget bill, and other appropriate matters. The committee is to report by January 15, 1974.

The select committee's task of reviewing a major state department's programs, its relationships to local governments, private providers of service, and the public is an enormously complex task.

Because of the importance of the mission of the select committee, its members should not feel bound by an early reporting date. If the committee is able to report its findings and recommendations in time for the annual budget review session, that is fine, but the committee should have the flexibility to extend its review efforts with an expectation that the review would be completed by January, 1975. I have therefore deleted the specific reporting date of the select committee.

Effective Date Reference - Division of Health Policy and Planning: Section 561, paragraph 6, includes reference to s. 15.101 (intro.) as being effective on January 1, 1974. Section 15.101 (intro.), however, is not affected by the bill. This reference could be interpreted to relate to the effective date of the creation of the Division of Health Policy and Planning under s. 15.101(7), which is intended to be effective as of the enactment of the bill. Since it is apparent that the reference is an error, and could be misinterpreted, it has been deleted.

## ADMINISTRATIVE CONTROLS

Board on Government Operations Approval of Land Sales: The Building Commission has the power to approve the sale of lands and property owned by state agencies. However, under s. 46.06(4) Department of Health and Social Services land sales must receive BOGO approval in addition to that of the Building Commission. In the executive budget I recommended an amendment to s. 46.06(4) deleting BOGO approval of such land sales to make the procedure for approval of land sales of state agencies uniform. I have deleted Section 5d of the bill which requires BOGO approval of state agency land sales because it conflicts with Section 221. The conflict arises because Section 5d requires BOGO approval of state agency land sales while Section 221 repeals BOGO approval of land sales

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by the Department of Health and Social Services. The eight member Building Commission has six legislators included in its membership to provide sufficient legislative review of land sales.

Sum Certain Appropriation for Special and Executive Committees: Section 119 of the bill changed the appropriation under s. 20.505(5)(a), Special and Executive Committees, from a sum sufficient to an annual sum certain appropriation. That appropriation provides for the travel and miscellaneous expenses of committees created by statute or executive order on the condition that BOGO approve the budget of each such committee. I have vetoed Section 119 because it could hamper a Governor in developing responses to critical policy problems facing Wisconsin through the use of citizen task forces. A sum certain appropriation could improperly constrain future governors in the development of public policy proposals. It is, however, my intent to stay within the \$200,000 estimate in the bill during my current term in office.

Controls on Expenditure of Federal Funds: Sections 31d and 32g of the bill essentially changed the appropriations for federal funds from a sum sufficient to a sum certain basis and prohibit the use of any federal funds received in excess of the appropriation without prior approval of the Governor and the Joint Committee on Finance. In addition, Section 32r provides that when federal funding of a program is reduced or terminated, state participation in the program shall be reduced in the same proportion as the federal reduction. Section 32r also provides that all appropriations made to match or secure federal funds which are in excess of the amounts required to match federal funds shall be placed in unallotted reserve until approved for release by the Governor and the Joint Committee on Finance.

These restrictions, when considered in total, create a number of problems which hamper the effective administration of federal funds by this state:

- a) It is difficult, if not impossible, to accurately reflect future federal funding.
- b) Prior approval of the Governor and the Joint Committee on Finance would be extremely cumbersome, difficult to administer and would result in serious delays in capturing federal funds and in implementing the programs.

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- c) Several agencies have indicated that prior approval of federally authorized funds may put programs out of conformity with federal law and regulations.
- d) Perhaps most important, a prior approval requirement would be contrary to an active program to gain Wisconsin's fair share of federal aid funds.
- e) In addition, the provisions for proportional reduction of state funds and the requirement to place excess matching funds in unallotted reserve are arbitrary provisions which would not result in effective controls.

Based on these factors, I do not believe it is in the best interests of the State of Wisconsin to create an unworkable control system to handicap our federal aid programs and have vetoed the sections in question. Recognizing the need for effective, workable controls on federal aid programs, however, I will send a letter to the special joint committee created by Senate Joint Resolution 77 to study the budget process recommending that the committee include this matter within the scope of its review.

Controls on Authorized Positions: In addition to the controls on the expenditure of federal funds, Section 31b would require that no additional permanent positions above the number authorized through the biennial budget or the budget review process be granted without the approval of the Joint Committee on Finance and the Governor. Like the requirement for prior approval of federal funds, the provision for Joint Finance Committee approval of all new positions, regardless of source of funding, appears to be unworkable. The workload involved in approving positions funded from federal grants, for instance, would require that the committee meet regularly and frequently. I believe the control of authorized state positions, once approved by the Legislature, should be a responsibility of the executive branch. The Department of Administration is currently developing a comprehensive position management system which the members of the Legislature and I agree is needed. Although I have deleted the unworkable requirement contained in section 31b, I will also suggest to the committee created by Senate Joint Resolution 77 that it include the question of overall control of authorized positions within the scope of its review.

Restrictions on 1974-75 Expenditures A number of sections in the budget bill deviate from the Wisconsin budget policy of a fully-funded and authorized biennial budget with an interim legislative



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review of the second year. The bill proposes a number of contingency appropriations requiring further committee or legislative action before expenditures are authorized.

Until now, Wisconsin has avoided many of the undesirable practices of the federal government which have resulted from contingency budgeting. At the federal level, many important decisions are avoided in the full legislative consideration of appropriation bills, and are made subsequently only by a committee on Congress. In retaliation, the executive branch has impounded funds which it feels should not be spent.

With the adoption of the annual review process, a clear alternative to contingency budgeting is available. Any questionable programs funded for the second year can be the subject of recommendations by the executive, review by the Joint Committee on Finance and affirmative action by the two houses of the Legislature. The alternatives proposed in several sections of the budget bill are clearly less desirable as public policy. In the case of the second year appropriation to the University of Wisconsin System for general program operations, over \$14.6 million is not authorized for expenditure without further legislative action. Should the annual review budget bill fail to pass for entirely different reasons, as was the case in a similar situation in 1960, the University would be denied necessary funds to complete its biennial program. In other instances, funds and policies are placed in reserve for action only by the Joint Committee on Finance without any review by the two houses of the Legislature or the Governor.

The budget bill does very appropriately call for a number of studies which will be important contributions to the annual review budget. Further, in a separate action, the Legislature has called for a study of the entire legislative budget process which can address itself to some of the problems that lead to the contingency proposals in the budget bill.

Of the contingency appropriations, the most objectionable is that portion of section 59 which establishes general program operations escrow funds of over \$14.6 million for the University of Wisconsin System for 1974-75. These funds would "not be released except by the affirmative action of the Legislature during the annual budget review session, pending a report by the board of regents to the Governor and the Legislature no later than December 1, 1973, on efficiencies and economies gained by program consolidation and recommendations concerning facility utilization and campus operations". I have deleted this contingency funding

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provision as inconsistent with full biennial budgeting and because no specific criteria or guidelines are established for this report on program consolidation, faculty utilization, or campus operations. The requirements for an academic program evaluation study and a facilities utilization study remain in sections 549m and 549s. Review of the funding needs of the University for 1974-75 can still be accomplished as part of the annual budget review.

Sincerely,  
**PATRICK J. LUCEY,**  
Governor.