STATE OF WISCONSIN

Assembly Journal

Eighty-Second Regular Session

WEDNESDAY, June 2, 1976.

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

COMMUNICATION

State of Wisconsin
Department of State
Madison

To Whom It May Concern:

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

Bill, Jt. Res. or Res.	Chapter No.	Publication date
Assembly Bill 219	278	May 27, 1976
Assembly Bill 663	279	May 27, 1976
Assembly Bill 855	280	May 27, 1976
Assembly Bill 981	281	May 27, 1976
Assembly Bill 1095	282	May 27, 1976
Assembly Bill 1246	283	May 27, 1976
Assembly Bill 105	292	June 2, 1976
Assembly Bill 128	293	June 2, 1976
Assembly Bill 188	294	June 2, 1976
Assembly Bill 546	369	May 29, 1976

Respectfully submitted,
DOUGLAS LaFOLLETTE,
Secretary of State.

Wisconsin Legislature
Assembly Chambers
Madison

June 1, 1976

The Honorable Douglas J. LaFollette
Secretary of State
State of Wisconsin
112-West, State Capitol
Madison, Wisconsin 53702

Re: **Assembly Bill 1342**

Dear Mr. LaFollette:

I submit herewith **Assembly Bill 1342**. The time for the Governor's approval or disapproval of this bill lapsed on Friday, May 28, 1976.

Assembly Bill 1342 is deposited with you pursuant to Article V, Section 10 of the Constitution. Publication should take place as soon as possible in the orderly publication of Acts. Please advise this office at your earliest convenience as to what the publication date will be.

Sincerely yours,
EVERETT E. BOLLE
Assembly Chief Clerk

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison

To the Honorable, the Assembly:

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

Assembly Bill	Chapter No.	Date Approved
69	377	May 27, 1976
93	378	May 27, 1976
298	379	May 27, 1976
595	380	May 27, 1976
710	381	May 27, 1976
819	382	May 27, 1976

1067	383	May 27, 1976
1102	384	May 27, 1976
1106	385	May 27, 1976
442	392	May 28, 1976
573 (partial veto)	393	May 28, 1976
925 (partial veto)	394	May 28, 1976
1148	398	May 28, 1976
674	399	May 28, 1976
786	400	May 28, 1976
794	401	May 28, 1976
933	402	May 28, 1976
355 (partial veto)	408	May 28, 1976
616	410	May 28, 1976
1306	411	May 28, 1976

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

GOVERNOR'S VETO MESSAGES

May 27, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 34** without my approval.

This bill exempts agricultural bedding and litter, including wood shavings and wood chips, from the four percent sales and use tax. During the legislative consideration of **Assembly Bill 34**, some argued that straw, which is often used as agricultural bedding, is exempt. However, under the law, straw is exempt only when it is purchased as feed -- not when it is used for bedding.

It is widely known that straw is rarely used as feed though many purchasers claim it will be so used in order to unfairly take advantage of the feed exemption. Those purchasers who do not pay sales tax on straw used as bedding are in violation of the law.

Therefore, no precedent exists for exempting bedding from the sales tax. It would be incongruous indeed to use the abuses of the sales tax law that relate to straw as the rationale for enacting an additional unjustified exemption.

However, even if a precedent did exist, I believe that other, broader, considerations argue against the enactment of this measure.

In 1969, Wisconsin's selective sales tax was converted into a general sales tax. Certain exemptions to this general tax have been enacted by the Legislature. Educational, charitable and governmental bodies, for example, have been exempted from paying sales tax on their purchases. Exemptions have also been created for goods purchased for resale and such basic necessities as food for home preparation and prescription drugs. Other miscellaneous exemptions have also been allowed over the years; but the great majority of non-food commodities have remained subject to sales taxation, even though some justification could probably be found to exempt many of them.

Because many items would probably merit an exemption when taken on a case-by-case basis (clothing for individuals and office supplies for businesses, for example) we must look at proposed exemptions in the context of the total sales tax structure. Strong proof must be offered showing what important public purpose is served by each proposed exemption. Otherwise, the sales tax will become riddled with special tax exemptions. Such exemptions damage the fairness of the general sales tax by allowing different tax treatment of similar commodities. Also, while minor exemptions do not individually jeopardize the state's revenue base, a persistent pattern of small exemptions would significantly erode that base.

The proponents of **Assembly Bill 34** have not shown what important public purpose would be served by an exemption of agricultural bedding or litter. It is argued that these items are necessary for the operations of farms; however, the sales tax applies to a host of essential commodities used by businesses and individuals in Wisconsin. Therefore, it is not enough simply to show that an item is needed.

Some suggest that this exemption will aid Wisconsin's hard-pressed farmers. But agriculture has already been given substantial exemptions from the sales tax. These include exemptions for feed, seed, fertilizer, pesticides, animal waste containers and farm machinery. In the present session, the Legislature enacted, and I signed, a bill exempting agricultural baling twine.

Most important, the goal of aiding financially hard-pressed farmers should not be met with shotgun tax assistance programs. Sales tax exemptions like AB 34 help wealthy farmers along with poor ones. Indeed, to the extent that large, wealthy operations purchase more agricultural bedding and litter, they would receive greater tax relief from the bill than smaller, marginal farms. Other kinds of tax relief, which are related to income, are more

appropriate for assisting Wisconsin farmers struggling with an unfavorable economy. The Legislature's increase in Homestead Tax Credit benefits and its expansion of eligible acreage from 80 to 120 acres was a meaningful and direct way of helping hard-pressed farm families in Wisconsin.

Assembly Bill 34 is not an efficient way of helping Wisconsin farmers. It does not advance any broad public purpose and it reduces the equity of our general sales tax. I ask your concurrence in my decision to disapprove this unwarranted exemption.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 92** without my approval.

This piece of legislation seeks to make needed changes in our grand jury system. Though the grand jury has often served, as during the recent Watergate episode, as an effective crimefighting tool, it has also been used, at least in other states, for selfish or political ends by unscrupulous prosecutors. Most of the changes which **Assembly Bill 92** makes in existing law are intended to protect witnesses from this sort of abuse.

Specifically, the bill seeks to ensure that, when an individual is called to testify as a witness before a grand jury, he may be adequately represented by legal counsel. It also seeks to ensure that grand jury proceedings are kept secret. Assembly Bill 900 of 1973, introduced several years ago at my request, had similar objectives.

Unfortunately, as currently written, **Assembly Bill 92** has several serious flaws which make it unacceptable.

First, the bill states that a witness who refuses to testify, despite a promise of immunity from prosecution, can only be incarcerated once. Thus, a witness could refuse to speak, go to jail, change his mind, answer the original question, then refuse to respond to any additional new query, and thereafter be totally free from incarceration for contempt of court. This likely outcome would, in my view, bring grand jury proceedings to a quick halt for all practical purposes.

Second, the bill not only permits a witness to be accompanied by an attorney when testifying before a grand jury but also allows the witness to be examined by his lawyer. In some instances, such an examination will be used solely to distract and confuse the members of the grand jury who, unlike the members of a trial jury, do not have the immediate assistance of a judge in cutting off irrelevant or improperly presented testimony.

Third, the bill allows a defendant to obtain at his trial any portion of the transcript of the grand jury's proceedings -- regardless of whether such disclosure involves irrelevant information, endangers the life or safety of a key prosecution witness, or impairs the public safety or national security. Clearly, defendants should have access -- before trial, in fact -- to as much of the grand jury's proceedings as possible, but the defendant's right to disclosure must be counterbalanced against and limited by the prosecutor's right to protect the physical well-being of crucial witnesses and the public's right to safety and security.

Taken together, the deficiencies of **Assembly Bill 92** outlined above would, I believe, limit severely the effectiveness of the grand jury.

It may be that, at some point in the future, changes in the John Doe proceeding will make it possible to eliminate the grand jury entirely from our system of criminal justice. John Doe proceedings now lack authority to compel testimony or records from out of state. Grand juries, on the other hand, have the power to compel testimony from out-of-state witnesses and to require that records located out of state be delivered to Wisconsin authorities for inspection. If legislation were enacted which transferred to the John Doe proceeding the legitimate prosecutorial powers now held exclusively by the grand jury, I would be supportive of efforts to abolish the grand jury in its entirety.

However, until the John Doe procedure is modified to include the unique advantages now offered by the grand jury procedure, we should keep our grand jury system -- and, in keeping it, we should make sure that it can function effectively. Recalcitrant witnesses should be subject to repeated incarceration should they repeatedly refuse to testify without reason. Witnesses should be able to have an attorney (not necessarily their chosen attorney, but at least an attorney accountable to them) when appearing before a grand jury, but the right of such an attorney to conduct an examination should be severely limited if not prohibited in order to protect the grand jury from confusion. Defendants should have access, before trial, to

a transcript of grand jury proceedings, but portions of such a transcript ought to be masked if the prosecutor provides good reason for doing so to a judge. Because **Assembly Bill 92** falls significantly short of the kind of effective grand jury we ought to have, I am returning it without my approval.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 163** without my approval.

The bill represents the culmination of many months of effort by the Judicial Council. The process was long and arduous and the subject matter was exceedingly complex. The final bill -- which was substantially amended in the Legislature -- contains some important improvements in the way that contested cases are handled under the administrative procedure act. The Judicial Council deserves full credit for those improvements.

However, I am concerned that the bill may have effects which are not in the best interests of the state. This concern is shared by many state agencies who have the responsibility of protecting the interests of all the citizens of Wisconsin. On balance, I believe **Assembly Bill 163** enhances the rights of potential litigants against the state, but does not benefit the vast majority of our taxpayers.

I am concerned that the bill will increase litigation against the state, the expense of which must be born by all our citizens. I am concerned as well that the burden on our state's courts, particularly the Supreme Court, will increase. The multiple venue features of the bill are likely to result in a body of law that is less consistent than the body of legal precedents which have evolved over the last several decades in Dane County.

I am willing to commit fully my efforts and those of my staff to an improvement in the procedures by which contested cases are handled in Wisconsin. I believe that a system can be developed which will improve the rights of those who might contest state

actions while minimizing the expensive and time consuming litigation which I fear would follow the enactment of AB 163.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I have approved **Assembly Bill 355** as Chapter 408, Laws of 1975, and deposited it in the office of the Secretary of State.

The bill authorizes the Board of Regents of the University of Wisconsin System to establish and maintain a school of veterinary medicine at UW-Madison and satellite food animal clinical facility at UW-River Falls. Specifically, **Assembly Bill 355** requires that the State Building Commission provide sufficient funds for the advance planning of the new veterinarian facilities and provide $238,600 for start-up costs.

The bill constitutes the first step in a building program which will cost a minimum of $35 million. Once the facilities are constructed, it is estimated that the cost of operating the new school and clinic will be a least $4 million per year. I do not believe our state should make such a substantial commitment of its resources without first receiving some assurance that the expenditures will provide additional veterinary service where it is especially needed -- in rural Wisconsin.

The proponents of AB 355 have communicated with me many times, and often in great detail, concerning the need for these new facilities. A recent position paper provided to me by the University, various farm organizations, and the Wisconsin Veterinary Medical Association contained the following concluding paragraph: "The purpose of AB 355 is to establish a school of veterinary medicine in Wisconsin that will provide quality veterinary medical education, research, and service to the people of Wisconsin. The objective of that school will be to improve the health and welfare of the people and their food-producing, companion and recreational animals."

I do not agree that improving the health and welfare of companion animals and recreational animals (i.e., pets) deserves a high priority in the allocation of tax dollars at a time when revenue is scarce. There is, however, a state interest in increasing the

number of large animal veterinarians to ensure a high quality of care for the livestock which is so important to the agricultural economy of our state.

What is needed is a program which will assure an adequate supply of large animal veterinarians in the areas where there is not now sufficient veterinary care available. The problem is more one of distribution than of supply. The proposal which this bill initiates does not deal in any direct way with the distribution of veterinary services. Rather, the proposal is based on a sort of "trickle down" theory of veterinary care which proposes the building of expensive facilities in the hope that some of the graduates of the facilities will choose to practice in areas where there is a need. If the supply of veterinarians is large enough, the theory goes, then, sooner or later, veterinarians will practice where they are most required. We are asked to finance an expensive long-term solution that ignores the rules of the marketplace.

The fact is that small animal practices specializing in pets are more lucrative for graduating veterinarians than are large animal practices specializing in livestock animals. Even if the new facilities were built as planned, it would take many years to saturate the small animal market. In the meantime, Wisconsin will have spent many millions of dollars to subsidize graduates entering small animal practice.

Moreover, it can be expected that approximately half of the graduates of the new veterinary school will not practice in Wisconsin. All in all, it is difficult to imagine a less efficient way of meeting the need for large animal veterinarians in certain areas of the state than to provide a new educational complex for students of all kinds of veterinary medicine. It would be far less expensive for the state to simply pay a subsidy to individual veterinarians who are willing to practice where the need is greatest.

The proposal for a new veterinary school and clinic is a classic example of the sort of governmental initiative that gains momentum and support even though it does not withstand the scrutiny which must be applied to any program requiring such a substantial increase in state spending. The question to be faced in evaluating **Assembly Bill 355** is not whether or not we should support our agricultural community. Clearly, we should and we do. The question is whether or not an expensive new school of veterinary medicine is the best response to localized shortages of large animal veterinarians. I believe the answer is no.

Therefore, I have deleted Sections 1, 3, and 4 from **Assembly Bill 355**. The effect of the deletion is to remove the authorization and all funding for both planning and implementation of the proposed new facilities.

I have left intact those portions of Section 5 of the bill which provide for a study of potential revenue sources to support the operation of the new veterinary school.

This is a course which is consistent with the resolution passed on January 10 by the Board of Regents of the University of Wisconsin. The resolution affirmed a position paper in favor of establishing new facilities at Madison and River Falls if a determination had been made "by the state that a sufficient revenue base has been identified to meet the basic needs of the system's current programs as previously advanced by the Regents, and that in addition a revenue base has been established for the fiscal requirements of a new school."

Such a revenue base has not been established. The study by the Department of Revenue should make clear what options are available to us for financing a program to fill the gaps in Wisconsin's veterinary medicine system.

It is my hope that as the Board of Regents continue to consider the question of a new veterinary school they will bear in mind the commitments which have already been made to expand the family practice program and the large increase in costs which can be expected when the Medical College of Wisconsin is functioning at full strength.

Finally, if there is a single lesson which ought to stand out from our country's recent history it is that spending more and more tax dollars is not the only solution to the problems that face us. We should not let the current improvement in the national economy provide justification for a new surge of public spending.

As it is we have a manageable problem concerning the supply and distribution of large animal veterinarians in Wisconsin. It is my hope that we will be able to develop a measured, economical response to that problem.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 26, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 506** without my approval.

Section 943.30 of the Wisconsin Statutes already prohibits much of the conduct which **Assembly Bill 506** would also prohibit. There are, however, some differences between the proposed laws with respect to the kinds of conduct they forbid.

Section 943.30(1) makes illegal certain threats to do any injury to any person if certain impermissible intentions also exist. **Assembly Bill 506** makes illegal threats to do physical injury and threats to kidnap if specific impermissible intentions also exist.

Section 943.30(1) prohibits these threats where there is an intent to extort money or any pecuniary advantage. **Assembly Bill 506** adds a prohibition on threats where there is an intent to extort non-monetary "things of value".

Section 943.30(1) prohibits threats where there is an intent to compel a person to do something against his will or to omit to do any lawful act. **Assembly Bill 506** includes a special provision against threats intended to compel a public officer or a candidate for public office to do something against his will or to omit to do a lawful act; furthermore, **Assembly Bill 506** prohibits not only threats intended to compel conduct or the omission thereof from public officers but also prohibits attempts to influence such officers, in a manner short of compulsion, with respect to any matter within the scope of the officers' functions.

However, the principal difference between the existing law and the legislative bill involves the punishments they impose. With respect to certain types of conduct which both the current law and the proposed law prohibit (though not in the case of all conduct prohibited by both), the existing law imposes maximum penalties of $2,000 or 5 years incarceration while the proposed law would impose a maximum fine of $10,000 or 10 years in prison.

This difference in penalties would not matter if Section 943.30, insofar as it dealt with the same matters as **Assembly Bill 506**, was repealed by that piece of legislation. But, unfortunately, Section 943.30 as it now stands will remain completely in effect if **Assembly Bill 506** becomes law. Nothing in the existing statute is altered by the proposed one. Rather, **Assembly Bill 506** simply adds on -- for some of the same types of criminal misconduct -- a different set of punishments.

As a result, the danger exists that two people engaging in exactly the same acts of criminal misconduct will be convicted under different provisions of law -- Section 943.30(1) or the new Section 943.30(4) -- and will be subjected to significantly disparate punishments. This kind of situation is an invitation to arbitrariness in prosecution and sentencing. It should not be permitted. Accordingly, I am vetoing **Assembly Bill 506**.

The Legislature will, I hope, review Section 943.30 in its entirety during the next session and revise the existing law so that it is precise in its meaning and uniform in its application. Such a piece of legislation will receive my prompt approval.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 568** without my approval.

The bill mandates that the court assess full court costs and attorney fees to either the unsuccessful party or the attorney representing the unsuccessful party in court actions which are determined to be frivolous. In addition, the bill defines frivolous to mean "not honestly debatable under law".

Although I am in agreement with the objective of this bill, that is, eliminating the use of the courts in frivolous actions primarily intended to harass individuals, the bill has several serious flaws. First, the definition of frivolous appears to be unclear. A more specific, narrower, definition would be in order which would specify that court actions for harrassment purposes are the actions which are meant to be covered. Without this definition clarification, the bill may act as a deterrent to some elements within our society, particularly low and moderate income individuals, from seeking judicial remedies due to costs which may be imposed on them.

Second, the courts are required to pay full court costs and attorney's fees. The bill does not limit the amount an attorney may charge and the court is given no discretion to pay "reasonable" fees. This situation could lead to abuse without some limiting factors. Either the courts should have discretion in determining reasonable fees or the statutes should set maximum dollar limits

which are available for attorney fees. In addition, the bill mandates that either the unsuccessful party or the unsuccessful party's attorney shall be assessed full costs. A better alternative would be to allow the courts to assess full costs to either the party or the attorney or a portion of the costs to each.

I am in favor of legislation which would attempt to prevent harrassment lawsuits in the courts but this bill appears to go well beyond that objective. In addition, the bill has the potential to be abused due to containing no language as to what constitutes reasonable attorney fees.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I have approved **Assembly Bill 573** as Chapter 393, Laws of 1975, and deposited it in the office of the Secretary of State.

I today have signed the amendment to the Protective Services Act. These amendments clarify the original law and make it more flexible. I have also made three minor item vetoes. Section 41 (1) of the bill made an appropriation increasing funds to the s. 42.427 boards by $4,400 GPR. Separate funds are contrary to the policy of providing a per capita formula funding approach to the disability boards. We should not resurrect the habit of distributing small amounts of funds to disability boards for each piece of legislation with minor costs.

I have also made two item vetoes to Section 19(13) of the bill which attempted to clarify which counties would be responsible for the cost of protective placements and services. The bill distinguishes between county of legal residence and county of legal settlement. The previous law required that petitions for protective placement or guardianship be filed in the county of residence. A person residing in an institution or colony is a resident of the county in which the institution is located. This created difficulties for institutional residents who were going to be returning to their parents' home in a different county. This was often the county of legal settlement. This bill creates an option; a petitioner has the choice of filing with either the county of legal settlement or the

county of residence. I believe also that the financial responsibility should not be determined by where a legal petition is filed.

I have vetoed the section that would make the county in which the papers are filed financially responsible for the cost of any care or treatment. This requirement would confuse existing law and create a legal ambiguity in terms of fiscal liability.

I am asking the Department of Health and Social Services to develop a model procedure that would allow a more flexible, fairer way to determine which county has financial responsibility.

I have also vetoed a provision that requires disability boards to be charged for the "local share" of cost of care. There is no "local share" under state law and this section would have been confusing to counties.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 854** without my approval.

A person subject to epileptic seizures may be licensed, but only under the provisions of section 343.09 of the Wisconsin Statutes. Although there is no requirement that a person subject to epileptic seizures be licensed, if the administrator of the Division of Motor Vehicles determines that licensing would be appropriate, after giving fair consideration to medical evidence which must be presented, then the administrator may issue a temporary driver's license. Following the advice of physicians, primarily neurologists, the Division will not license a person unless he or she has been seizure-free for a one-year period.

However, there is one important exception to the one year waiting period. When a person with epilepsy has been advised by his or her physician to temporarily reduce or cease medication, a seizure may occur. The Division has been informed by its medical advisors that once this person returns to his or her previous medication level, and remains seizure free for 60 days, that this person can safely be considered for relicensing.

My primary concern with **Assembly Bill 854** is the insertion of the underscored material on page 2, lines 2 and 3 of the bill, creating a six-month statutory waiting period. First, by establishing a mandatory six-month waiting period, **Assembly Bill 854** would remove the ability of the administrator of the Division of Motor Vehicles to follow the intelligent direction of epilepsy specialists in those cases where they believe that 60 days is sufficient. It is my understanding that once an individual's seizures have been brought under control for a long period of time, and then, because medication was decreased or ceased on the advice of a physician (perhaps because of pregnancy or illness), many times there is a strong basis to justify relicensing much sooner than the six-month period required by AB 854.

Second, while **Assembly Bill 854** does not require the Division to license a person with epilepsy after he has been seizure-free for six months, it suggests that six months is an adequate time period. The administrator is faced with the dilemma of deciding which statutory legislative directive to follow. If he follows the legislative impulse behind **Assembly Bill 854** suggesting that six months is long enough, he must ignore the medical advice he has received to the contrary that six months is simply not long enough in typical cases. To ignore this medical advice would be to minimize the importance of subsections 343.09(2) and (3) of the Wisconsin Statutes relating to medical advice and ministerial discretion.

Therefore, because a statutory six month waiting period may needlessly prevent the licensing of some individuals, together with the fact that it places the administering official in a difficult position, I cannot support **Assembly Bill 854**.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 876** without my approval.

Assembly Bill 876 requires the Department of Health and Social Services to convert into administrative rules the existing rules dealing with the management, discipline or release of persons committed to state institutions or placed on probation and parole. I support, as does Secretary Carballo, the objective of **Assembly Bill**

876, which is to require the Department of Health and Social Services to formalize its rulemaking process so as to encourage participation by the public and legislators, and to ensure that rules will not be developed or applied in an arbitrary fashion. However, **Assembly Bill 876** also creates a number of problems because the administrative rule process is inappropriate for handling the details of institutional living.

Institution rules contain great detail on matters such as sanitation of living quarters, wearing of wedding rings, record maintenance and inmate correspondence. Administrative rules of such a specific nature would have to be constantly changed. If the administrative rules were made broader, the Department would have to delegate administrative interpretation of rules to wardens, institution heads, and probation and parole agents. This would undermine the ability of the public and the legislators to have an input into the promulgation of rules.

I am returning **Assembly Bill 876** without my approval because there is a more appropriate way to deal with this issue. I have already directed the Secretary of the Department of Health and Social Services to establish a new procedure for promulgating rules so as to assure the public and the legislators of an active voice in the development and implementation of these regulations. This new procedure would give the Legislature input without creating other administrative problems.

Under the new procedures, the Department of Health and Social Services would appoint an advisory committee, consisting of legislators and private citizens, to oversee the promulgation of rules. The Department will also develop an on-going system of review to continually update the regulations.

The Department is presently revising its regulations for prisons. The advisory committee will play an active role in the development of a new comprehensive code and, for the first time, these regulations will both be made available to all prisoners and be integrated into the inmate complaint system.

This advisory committee will also review the rule manual published by the Division of Mental Hygiene. This manual establishes guidelines for the treatment and care of institutionalized individuals who suffer from mental or physical disabilities. The committee and the Department should review the manual to ensure that it strikes a proper balance between providing care based on individual need and adhering to uniform standards.

Finally, the committee and the Department would begin to develop a formal process to formalize probation and parole revocation procedures.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I have approved **Assembly Bill 925** as Chapter 394, Laws of 1975, and deposited it in the office of the Secretary of State.

The bill makes a variety of changes, most of them desirable, in the law relating to our state's plant industry.

I have, however, deleted that portion of the bill which requires prior legislative approval (through adoption of a joint resolution) of the administrative rules relating to the regulation and control of biological control agents. I believe that such prior approval of administrative rules is a fundamental violation of the concept of separation of powers.

The only certain result of such provisions is that conscientious administrative agencies, in this case the Department of Natural Resources, will be delayed and in some cases frustrated completely in their efforts to carry out their statutory responsibilities. As with such provisions in other bills, there is no deadline set by which legislative review must be completed. If the Legislature is not in session or is unwilling or unable to consider proposed rules, then enforcement is non-existent. More delay will be introduced into rulemaking procedures which already take far too much time.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 1010** without my approval.

Assembly Bill 1010 was drafted in response to a 1974 finding by the Attorney General that drainage ditches which are navigable fall

within the jurisdiction of the Department of Natural Resources under its obligation to protect the state's waters. Under the interpretation by the Attorney General, farmers are now required to obtain permits for maintenance of ditches they had constructed. The authors of **Assembly Bill 1010** intended to clarify the law and to remove the requirement for farmers to obtain permits for maintenance activities in ditches.

Instead of clarifying the law, this bill makes the situation more unclear. The attempt to eliminate the permit requirement for maintenance activities in all ditches fails to consider the public's rights in those originally navigable streams which were converted to ditches. Further, in a separate opinion (also in 1974), Attorney General Warren noted that under the statutes governing drainage districts (Ch. 88) the Department of Natural Resources has the final authority in all cases, including maintenance dredging, affecting navigable waters. **Assembly Bill 1010** does not alter the language in this chapter. Therefore, until the specific language in Chapter 88 is addressed, this area of the law will remain unclear.

In addition, **Assembly Bill 1010** only tried to eliminate a concern of farmers in drainage districts. It did not address the same concern of those farmers outside of drainage districts who own and maintain ditches. As drafted, the bill does not treat all drainage ditches equally, although all ditches have need for maintenance and repair. The necessity to secure a DNR permit to dredge or maintain a ditch would depend solely on whether a drainage district or a private person owned the ditch. This does not square with the state's responsibility to protect all waters of the state equally, which is the basis for requiring a permit in the first place.

The Legislative Council, recognizing the current controversy over several issues concerning the concept of navigability in Wisconsin has assigned this subject to its Natural Resources Committee for study. A subcommittee has subsequently been established to examine the whole area of navigable waters. I am sure that the subcommittee's broad examination of navigability which as that term is now construed includes navigable drainage ditches, will address the issue which concerns the authors of **Assembly Bill 1010**.

I will look forward to legislation in the next session which, in a fair manner, eliminates any undue hardship caused by present law to those who must maintain drainage ditches, and which also

continues to adequately protect the public's interest in public waters.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 27, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 1057** without my approval.

In the last biennial budget, I urged many units within state government to limit their program development and spending in order to live within the revenues we were projecting. One area in which there was a significant reduction in funding was in the aids to public library systems. It was my recommendation that these aids be prorated at 50% of the statutory formula amounts during the 1975-77 biennium.

This bill would increase library aids to a level significantly above the 50% proration that was agreed upon in the biennial budget process last year. The extent of that increase requires a brief explanation which will identify the reasons why I have vetoed **Assembly Bill 1057**.

First, I would like to point out that library system aids this year are being paid at 59.2% of the formula amounts. The reason for this is that a portion of the projected growth in system development has not materialized. Therefore, available funds are being used to increase payments to systems now in operation. This indicates the importance of the base from which the biennial appropriation was estimated in determining the rate of proration in library system aids.

The appropriations in Chapter 39, Laws of 1975, for library aids would have provided 62.7% proration in 1975-76, and 78% proration in 1976-77 if only those systems on-line in 1975 were funded. However, growth rates of 5.7% in 1975-76 and 13.7% in 1976-77 were contained in the estimates for those appropriations. Even with these growth factors, current projections from the Department of Public Instruction indicate that system aids will be paid at 67.4% of the statutory formula amounts next year. Therefore, library systems will be able to expand and be aided

during the 1975-77 biennium at rates well beyond our earlier projections.

A second factor that should be considered in assessing the extent of proration is the definition of aidable services. This definition leads directly to the purpose of library system development. Aidable services should be clearly identified and placed in some priority in order to assure our basic purpose which is balanced library development throughout Wisconsin. Much more needs to be done in this area and I am encouraged by the efforts of the Task Force on Interlibrary Cooperation and Resource Sharing that are now underway in this regard.

Assembly Bill 1057 does not offer a realistic alternative for improving the delivery of library systems services. It asks that the state provide more funding for a program that already includes significant growth in its biennial base, and a program that currently funds all services as if they were all equal in importance. With current projections indicating that funding for library systems will be well above the levels established in the biennial budget, I feel I must reluctantly veto this bill since it contains a major increase above and beyond those higher levels. It is my hope that with more careful identification of aidable services and with some prioritization, we can look forward to higher funding levels for library systems in the coming biennial budget.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 27, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 1215** without my approval.

Under existing statutes motor vehicles that are more than 40 years old may be registered as antique motor vehicles. The registration fee for antique motor vehicles is a one-time $5.00, the period of registration is permanent, and distinctive license plates are issued for these vehicles.

Similarly, though more complexly, under current law motor vehicles that are 20 or more years old that have not been altered from original manufacturers specifications may be registered as special interest motor vehicles. The registration fee is a one-time

$40 and the period of registration is permanent. Distinctive license plates are issued and personalized collector identification numbers are assigned for each license plate. The plates have the word "collector" stamped into them.

Assembly Bill 1215 would create two new and complex special registration procedures for reconstructed and homemade motor vehicles.

Assembly Bill 1215 would allow vehicles that have been "substantially altered" from original manufacturers specifications and assembled from a vehicle 20 or more years old to be registered as reconstructed motor vehicles. The registration fee would be a one-time $40 and the period of registration would be permanent. Distinctive license plates would have to be issued and personalized hobbyist identification numbers would have to be assigned for each license plate. The plates would also have the word "hobbyist" stamped into them.

Assembly Bill 1215 would likewise allow homemade vehicles to be registered in the same fashion as reconstructed vehicles. Homemade vehicles are motor vehicles of any age that have been constructed or assembled from new or used parts "using a body and frame not originating from any previously manufactured motor vehicle." The registration fee would be a one-time $40 and the period of registration would be permanent. Distinctive license plates would have to be issued and personalized hobbyist identification numbers would have to be assigned for each license plate.

I disapprove of AB 1215 because of its adverse fiscal and administrative effects.

Assembly Bill 1215 is clearly drafted along the lines of s. 341.266 of the statutes which provides a separate registration procedure for special interest motor vehicles and was enacted as Chapter 299, Laws of 1971. Since AB 1215 is so similar to s. 341.266, it would be much simpler to expand the existing statutory language rather than create a parallel section. There would then be only one special registration procedure for all "special interest," homemade and reconstructed vehicles instead of two or three similar procedures. There would also be only one type of distinctive "collector" plates rather than a required new series of plates with the word "hobbyist" stamped into them. There would also be one series of personalized collectors identification numbers rather than a required new series of hobbyists' identification numbers.

In November 1975, motor vehicle registrations in Wisconsin included 442 reconstructed vehicles, 93 homemade vehicles and 324 dune buggies. There are also an estimated 1,500 junked and reconditioned vehicles licensed annually that could be registered as either hobbyist or collector vehicles. Administratively, it would be clearly more efficient to register all such vehicles as "special interest" vehicles with collector plates rather than creating new plate series and new identification number series for these vehicles. **Assembly Bill 1215** inevitably adds another layer of administrative burden and personnel for manual processing of hobbyist registrations.

In addition to the extra administrative costs of new plates, new numbers, and personnel for manual processing, **Assembly Bill 1215** creates another one-time permanent registration system with a consequent loss of regular annual registration fees. Reconstructed and homemade vehicles may be licensed under present registration laws without any adverse effect on revenues. By the end of the third year of one-time registration for $40 under AB 1215, the decrease in revenues becomes significant. For automobiles, for example, the loss would be $18.15 per vehicle, per year by the end of the third year and every year thereafter. The only restriction on use of automobiles registered as hobbyist vehicles as provided by **Assembly Bill 1215** is that they may not transport passengers for hire. This is not equitable and is directly contrary to the shown need for increased transportation revenues.

Finally, it is my belief that Wisconsin cannot afford and should not accept these additional administrative and fiscal costs unless there is some corresponding benefit in the public interest. For certain groups, such as the disabled, there is clearly good reason for adopting special procedures which involve additional cost borne by the taxpayers at large. For other groups this may not be the case.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 28, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 1356** without my approval.

The immediate purpose sought by the passage of this bill is to expedite the adoption of nearly thirty Vietnamese children who now

reside with new families in Milwaukee County. Under current law, these children cannot be adopted because it is not possible to fulfill the legal requirement that their natural parents consent to the termination of parental rights. Because of the nature of our government's relations with the new government in Vietnam it is impossible to make the contacts necessary to ensure that the children are truly orphans and therefore subject to adoption.

If the impact of **Assembly Bill 1356** were limited to alleviating the difficulties now being experienced by the children and the persons seeking to adopt them, I would approve it without hesitation. Unfortunately, the effect of the bill is much broader.

The bill provides that the termination of parental rights shall not be required in those cases where a minor is brought into Wisconsin for the purpose of adoption under the quota system or has been classified as an "immediate relative" by the Immigration and Naturalization Service. The term immediate relative has an extremely broad application and can be applied to children brought to this country for the purpose of adoption whose parents have become "lost'"or "separated" or "have disappeared." Such vague definitions open the door to adoptions which might take place against the wishes of the child's natural parents.

The origins of the children who enter this country under the quota system are subject to even less scrutiny than those who enter as immediate relatives. None of the children residing in Milwaukee awaiting adoption have entered under the quota system. This provision therefore represents an additional loophole in our adoption procedures that is in no way related to the problem this bill is intended to resolve.

In recent weeks there have been several news stories recounting the difficulties encountered by the natural parents of Vietnamese children who were brought here under "Operation Babylift" in 1975. In retrospect, it is clear that these parents did not terminate their parental rights, but they are nonetheless engaged in costly and painful legal proceedings as they seek to regain custody of their children. To sign **Assembly Bill 1356** would be to ensure that the poignant stories of parents from foreign lands seeking the return of their children would be repeated again and again.

It is important to note that Wisconsin continue to have very high standards of proof concerning the termination of parental rights of children born in this country. Though it would be impractical to impose so high a standard on the adoption of

foreign-born children, it is nonetheless incumbent on us to make a reasonable, good faith effort to determine that such children are truly orphans whose natural parents are either no longer alive or have freely terminated their parental rights. The practical effect of **Assembly Bill 1356** is to relieve us of that most important duty. We cannot have a double standard in our law which assumes that the family ties of foreign-born children are somehow less worthy of protection and respect than the family ties of Americans.

I will aid efforts to make changes in Wisconsin law which will facilitate the adoption of foreign-born children who are truly without family support in their homeland. Unreasonable bars to their adoption by American parents should be eliminated, but care must be exercised that the rights of foreign-born parents and children are not compromised in the process. **Assembly Bill 1356** does not give sufficient weight to those rights. I am therefore returning it without my approval.

Respectfully submitted,
PATRICK J. LUCEY,
Governor.

May 27, 1976

To the Honorable, the Assembly:

I am returning **Assembly Bill 1373** without my approval.

The bill permits a county to designate any twelve-month period as its fiscal year. This is a departure from current law which requires that counties conduct their business on a calendar year basis.

In theory the bill offers counties three hundred and sixty-five options in choosing the dates of their respective fiscal years. As a practical matter, counties could be expected to limit their choices to three options: retain the current calendar year; adopt the state's July 1 fiscal year; or adopt the newly established federal fiscal year which begins on October 1.

To permit counties to exercise any of these three options will vastly complicate the fiscal relationship between the state and its localities. Uniform data based on uniform fiscal years is essential to the accurate and fair computation of state aids.

The administrative workload of a county which adopted a fiscal year other than the calendar year would very likely increase. In

order to satisfy the reporting requirements imposed by federal and state governments, a county might be required to budget on both a calendar year and fiscal year basis. State administrative costs would also increase as efforts were made to accommodate non-uniform information supplied by counties.

While there are persuasive arguments to be made in favor of all counties adopting the state or federal fiscal years, there is no justification for permitting an individual county to establish whichever fiscal year it desires. The result of such an option is sure to be administrative confusion and inefficiency.

Finally, by the end of this year the Wallace Commission will have completed its work. It is likely that the Commission will have developed a consensus concerning the most sensible fiscal year for both state and local governments. The best interests of the counties and of the state will be served by retaining the current calendar year for counties until the Commission completes its deliberations.

Respectfully submitted,

PATRICK J. LUCEY,

Governor.