

JOURNAL OF THE SENATE [January 14, 1975]

STATE OF WISCONSIN

Senate Journal

Eighty-Second Regular Session

TUESDAY, January 14, 1975.

2:00 P.M.

The senate met.

The senate was called to order by the president of the senate.

The senate stood for a moment of silent prayer.

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

LEAVE OF ABSENCE

By request of Senator Petri, with unanimous consent, he was granted a leave of absence for February 7 to attend the National Legislative Conference in Washington, D. C.

By request of Senator Dorman, with unanimous consent, he was granted a leave of absence for Wednesday, January 15.

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

Senators Bablitch, Berger, Bidwell, Chilsen, Cullen, Devitt, Dorman, Flynn, Frank, Goyke, Harnisch, Hollander, Keppler, Kleczka, Knowles, Knutson, Krueger, LaFave, Lorge, McKenna, Martin, Morrison, Murphy, Parys, Petri, Risser, Swan, Theno, Thompson and Whittow -- 30.

Absent -- Senator Peloquin -- 1.

Absent with leave -- None.

INTRODUCTION OF RESOLUTIONS

Senate Resolution 6

To amend senate rule 67 (1), relating to the motion for reconsideration.

Analysis by the Legislative Reference Bureau

When the senate adopted its rules for the current session by 1975 Senate Resolution 2 it repealed old senate rule 74 which had authorized the use of "pairs". Under the senate rules now in force, every member present must vote when a question is put (unless excused for special cause).

This resolution deletes from senate rule 67 (motion to reconsider) a reference to "pairs" which, as the result of the repeal of old senate rule 74, is now obsolete.

Resolved by the senate, That senate rule 67 (1) is amended to read:

Senate Rule 67 (1) A motion to reconsider a question may be made by any member having the floor who voted with, ~~or was paired with,~~ the majority, or in whose position recorded under rule 74 agreed with the majority. In the case of a tie vote, or a tie vote broken by the lieutenant governor's casting vote, the motion for reconsideration may be offered by any member not recorded absent on the question which it is moved to reconsider. ~~Such~~ The motion for reconsideration shall be subject to such all rules governing debate as apply to the question which it is moved to reconsider ~~and such.~~ The motion for reconsideration may be laid on the table without debate.

By Senators Risser, Chilsen, Whittow, Bablitch and Krueger.

Read.

By request of Senator Whittow, with unanimous consent, **Senate Resolution 6** was made a special order of business at 10:00 A.M. on Wednesday, January 15.

Senate Resolution 7

To amend senate rule 20 (1) (a); and to create senate rule 20 (1) (j), relating to creating a senate committee on agriculture and rural development.

Analysis by the Legislative Reference Bureau

In adopting its rules for the 1975 session, the senate abolished the old committee on agriculture and rural development and merged its functions, together with several other committee assignments, into a new standing committee on agriculture, human services, labor and taxation of 9 members.

This resolution removes the agriculture assignment from the new committee so that it will be the standing committee on human services, labor and taxation; however, the membership of the new committee is retained at 9 members. The agriculture assignment is again vested in a committee on agriculture and rural development; this committee will have 5 members.

Resolved by the senate, That:

SECTION 1. Senate rule 20 (1) (a) is amended to read:

Senate Rule 20 (1) (a) On ~~agriculture~~, human services, labor and taxation, 9 members.

SECTION 2. Senate rule 20 (1) (j) is created to read:

Senate Rule 20 (1) (j) On agriculture and rural development, 5 members.

By Senator Chilsen.

Read and referred to committee on Senate Organization.

Senator Chilsen asked unanimous consent that **Senate Resolution 7** be made a special order of business at 10:00 A.M. Wednesday, January 15.

Senator Whittow objected.

Senate Joint Resolution 2

Granting the use of the legislative chambers on Saturday, February 8, 1975 for the 1975 Model Legislative Session of the Wisconsin Junior Chamber of Commerce.

By Senators Whittow and Krueger.

Read and referred to committee on Senate Organization.

JOURNAL OF THE SENATE [January 14, 1975]

Senate Joint Resolution 3

To amend section 1 of article VIII of the constitution, relating to relief of the tax imposed for school purposes on the homestead of any person aged 65 or older (first consideration).

By Senator Kleczka, cosponsored by Representative Dorf, by request of Allied Council of Senior Citizens of Wisconsin Inc.

Read first time and referred to joint committee on Finance.

Senate Joint Resolution 4

To amend article XIII, section 2, so as in effect to repeal said section of the constitution, relating to disabilities arising from dueling (2nd consideration).

By Legislative Council.

Read first time and referred to committee on Governmental and Veterans' Affairs.

BILLS INTRODUCED

Read first time and referred:

Senate Bill 6

Relating to savings and loan associations acting as pension plan trustees.

By Senators Parys and Krueger.

To committee on Commerce.

Senate Bill 7

Relating to establishing a state accident and sickness insurance fund, creating a state accident and sickness insurance fund council in the office of the commissioner of insurance, granting rule-making authority, making appropriations and providing penalties.

By Senator Berger.

To joint committee on Finance.

Senate Bill 8

To appropriate \$640.47 from the general fund for payment of a claim by Russell Kaun, executor of the estate of Ervin Kaun, deceased, against the state.

By Senator Hollander, cosponsored by Representative Molinaro, by request of the State Claims Board.

To joint committee on Finance.

Senate Bill 9

Relating to exemption of military compensation from state income tax.

By Senators Hollander and Cullen, cosponsored by Representative Molinaro.

To Joint Survey Committee on Tax Exemptions.

JOURNAL OF THE SENATE [January 14, 1975]

Senate Bill 10

Relating to increasing the rate of interest to be paid upon delinquent property taxes.

By Senator Hollander, cosponsored by Representative Molinaro.
To joint committee on Finance.

Senate Bill 11

Relating to visitation privileges of grandparents.

By Senator Hollander.

To committee on Agriculture, Human Services, Labor and Taxation.

Senate Bill 12

Relating to cash reserves of state banks and trust company banks.

By Senator Keppler, by request of Larry MacDonald, Sheboygan.

To committee on Commerce.

Senate Bill 13

Relating to mandatory commitment for presentence examination.

By Legislative Council.

To committee on Judiciary and Consumer Affairs.

Senate Bill 14

Relating to revision of the criminal code.

By Legislative Council.

To committee on Judiciary and Consumer Affairs.

Senate Bill 15

Relating to rate regulation in workmen's compensation insurance and granting rule-making authority.

By Legislative Council.

To committee on Agriculture, Human Services, Labor and Taxation.

Senate Bill 16

Relating to insurance marketing regulation, granting rule-making authority and providing penalties.

By Legislative Council.

To committee on Commerce.

Senate Bill 17

Relating to a general revision of the insurance law relating to service insurance corporations and the tax exemption for hospital service insurance corporations and granting rule-making authority.

JOURNAL OF THE SENATE [January 14, 1975]

By Legislative Council.
To committee on Commerce.

Senate Bill 18

Relating to the commencement of judges' terms.
By Senator Kleczka, cosponsored by Representative Barbee.
To committee on Judiciary and Consumer Affairs.

Senate Bill 19

Relating to reduction of the time limitation period for commencement of actions for contribution based on tort.
By Senator Flynn.
To committee on Judiciary and Consumer Affairs.

Senate Bill 20

Relating to the loss of the exclusive right to a corporate name.
By Senator Flynn.
To committee on Commerce.

Senate Bill 21

Relating to the waiting period for unemployment compensation.
By Senators Kleczka, Swan, Parys, Berger, McKenna, Goyke, Thompson, Risser, Flynn, Frank and Dorman, cosponsored by Representatives Dorff, Pabst, Kirby, Soucie, Dandeneau and Norquist, by request of International Union, UAW Region 10.
To committee on Agriculture, Human Services, Labor and Taxation.

Senate Bill 22

Relating to grounds for divorce and legal separation.
By Senator Risser.
To committee on Judiciary and Consumer Affairs.

Senate Bill 23

Relating to grounds for divorce, resumption of former name, and the granting of alimony.
By Senator Risser.
To committee on Judiciary and Consumer Affairs.

Senate Bill 24

Relating to a sales and use tax exemption for electricity, natural gas, propane, coal and oil for use in a private dwelling.
By Senators Chilsen and Theno, cosponsored by Representative Murray.
To Joint Surevey Committee on Tax Exemptions.

Senate Bill 25

Relating to prohibition of nonreturnable containers, restrictions on the design of such containers, granting rule-making authority, providing a penalty and making an appropriation.

By Senator Petri, cosponsored by Representatives Jackamonis and Gunderson.

To committee on Commerce.

Senate Bill 26

Relating to payment date of state aid to municipalities and counties for manufacturing machinery and equipment revenue losses.

By Senator Chilsen.

To joint committee on Finance.

COMMITTEE REPORTS

The Committee on Senate Organization, acting under Senate Rule 20 (1), reports and recommends the following nominations to committees for appointment by the Senate:

(a) To the Committee on Agriculture, Human Services, Labor and Taxation, Senator Thompson, *chairman*, and Senators Cullen, Goyke, Harnisch, Morrison, Devitt, Chilsen, Murphy and La Fave.

(b) To the Committee on Commerce, Senator Parys, *chairman*, and Senators Martin, Berger, Swan, Peloquin, La Fave, Keppler, Knutson and Bidwell.

(c) To the Committee on Audit, Senator McKenna, *chairman*, and Senators Flynn, Peloquin, Knowles and Petri.

(d) To the Committee on Education, Senator Peloquin, *chairman*, and Senators Morrison, Thompson, Devitt and Petri.

(e) To the Committee on Governmental and Veterans Affairs, Senator Swan, *chairman*, and Senators Goyke, Berger and Theno (one vacancy).

(f) To the Joint Committee on Finance, Senator Dorman, *Senate chairman*, and Senators Bablitch, McKenna, Kleczka and Hollander.

(g) To the Committee on Judiciary and Consumer Affairs, Senator Flynn, *chairman*, and Senators Frank, Cullen, Lorge and Murphy.

(h) To the Committee on Natural Resources, Senator Martin, *chairman*, and Senators Harmisch, Krueger and Theno (one vacancy).

(i) To the Committee on Urban Affairs, Senator Frank, *chairman*, and Senators Kleczka and Chilsen (two vacancies).

JOURNAL OF THE SENATE [January 14, 1975]

(j) To the Joint Committee for the Review of Administrative Rules, Senator Berger to replace Senator Whittow.

FRED RISSER
Chairman

WAYNE WHITTOW
WILLIAM BABLITCH
CLIFFORD KRUEGER
WALTER CHILSEN

Senator Whittow moved adoption of the committee report.

The motion prevailed.

The joint committee on Finance reports and recommends:

Senate Bill 5

Relating to unemployment compensation extended benefit indicator modifications.

Passage recommended; Ayes, 11; Noes, 1.

HENRY DORMAN
Chairman

By request of Senator Whittow, with unanimous consent, **Senate Bill 5** was made a special order of business at 10:01 A.M. Wednesday, January 15.

PETITIONS AND COMMUNICATIONS

United State of America
State of Wisconsin
Department of State

To All To Whom These Presents Shall Come:

I, ROBERT C. ZIMMERMAN, Secretary of State of the State of Wisconsin, do hereby certify that the following proposed amendments to the Constitution of the State of Wisconsin, have been approved by the Regular Session of the Legislature of 1973, and duly published, as required by Section 1 of Article XII of the Constitution, and are hereby referred for further approval to the Legislature of 1975.

JOURNAL OF THE SENATE [January 14, 1975]

Assembly Joint Resolution 58
Senate Joint Resolution 6
Assembly Joint Resolution 133
Assembly Joint Resolution 145

IN TESTIMONY WHEREOF, I
have hereunto set my hand and
official seal, at the Capitol, in the
City of Madison, this third day of
January, A.D., 1975.

ROBERT Z. ZIMMERMAN
Secretary of State

Read and referred to the committee on Senate Organization.

State of Wisconsin
Claims Board

August 5, 1974

Mr. Willaim Nugent
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Nugent:

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on July 16, 1974.

The amounts recommended for payment under \$500 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board. The Board is preparing the bills on the awards over \$500 and will submit them to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature as to the nature of the claims which come before it for consideration.

Sincerely
EDWARD D. MAIN
Secretary

JOURNAL OF THE SENATE [January 14, 1975]

STATE OF WISCONSIN
CLAIMS BOARD

Hearings were held at the State Capitol Building in Madison, Wisconsin, on Tuesday, July 16, 1974, upon the following claims:

<i>Claimant</i>	<i>Amount of Claim</i>
1. John Wenning-----	\$ 84.96
2. Ralph Lazar-----	42.83
3. Mark T. Purcell-----	20.00
4. Casmere Koperski, Executor of the Estate of John Koperski-----	299.12
5. Rex M. Smith-----	121.26
6. Margaret Goss, Personal Representative of the Estate of Leander M. Goss-----	257.12
7. Alex Raineri-----	1027.30
8. Effie Appleby-----	25.00
9. Herman Saffold-----	44.20
10. Margaret F. Hood-----	200.00
11. Karen L. Karl-----	15.60
12. Edward G. Magin-----	764.05
13. City of Milwaukee, Model Cities Agencies-----	330.60
14. O'Bea Funeral Home-----	150.00
15. John L. Steele-----	128.28
16. Arthur W. Briede-----	36.66
17. Aetna Insurance Company and Western Industries, Inc.-----	486.93
18. Wisconsin Fuel and Light Company-----	159.15
19. Albert L. Wheeler-----	62.40
20. Kenneth Hastreiter-----	106.00
21. E. V. Banda-----	74.71
22. Carroll and Vivian Peterson-----	50.00
23. Henry L. Williams-----	10.00
24. West Bend Mutual Insurance Company-----	162.34
25. General Casualty Company (Mark J. Peterson)-----	414.19
26. Mrs. Brian Pooler-----	47.00
27. Robert Flier-----	154.04
28. Aetna Casualty and Surety Division (George McNicoll)-----	33.35
29. Mr. and Mrs. Armin Janz-----	394.00
30. William J. Morris-----	584.80

JOURNAL OF THE SENATE [January 14, 1975]

1. *John Wenning*

John Wenning, 213 South Kenosha Drive, Madison, Wisconsin 53705, claims \$84.96 for damages to his car while parked at the State of Wisconsin parking lot at General Executive Facility #1 in January and February 1974. Claimant pays \$25.00 per month for the space. The damage was caused by the ceiling of the parking area leaking and dripping on his car. The board concludes the State should pay the amount of the claim reduced to \$78.00 on equitable principles, which is the estimate to refinish the claimant's automobile trunk lid.

2. *Ralph N. Lazar*

Ralph N. Lazar, 3030 Ashford Lane, Madison, Wisconsin 53713, claims \$42.83 for damages to his car while parked at the State of Wisconsin parking lot at General Executive Facility #1 in January 1974. Claimant pays \$25.00 per month for the space. The damage was caused by a leaking ceiling dripping on his car. The board concludes the State should pay the amount of the claim reduced to \$39.68 on equitable principles, which is the estimate to refinish the claimant's automobile hood.

3. *Mark T. Purcell*

Mark T. Purcell, 3210 Nottingham Way, Madison, Wisconsin 53713, claims \$20.00 for a stale check dated January 16, 1961. The board concludes the State should pay the claim on equitable principles.

4. *Casmere Koperski*, Executor of the Estate of John Koperski

Casmere Koperski, Executor of the Estate of John Koperski, Route 1, Thorp, Wisconsin 54771, claims \$229.12 from the overpayment of inheritance taxes on September 12, 1972. Clark County's share of the overpayment was \$17.36, and a recomputation of the inheritance tax by the Wisconsin Department of Revenue shows an overpayment to the State of Wisconsin of \$283.51. The board concludes the State should pay the reduced claim of \$283.51 on equitable principles.

5. *Rex M. Smith*

Rex M. Smith, 722 Fifth Avenue, Antigo, Wisconsin 54409, claims \$121.26 for fees as Special Public Administrator for Langlade County, Wisconsin, for the period of June through December 1973. Claimant filed application for fees to the Langlade County Treasurer on January 23, 1974, as soon as he received a response from the Department of Revenue to his letter of January 3, 1974, which enabled him to prepare his petition for fees. The fees

JOURNAL OF THE SENATE [January 14, 1975]

were ordered paid by the Langlade County Court, Judge Ralph J. Strandberg, presiding, on January 23, 1974. The fees were not paid by the Langlade County Treasurer because the County Treasurer's final return under the prior law had been made by January 10, 1974. See Opinion of the Attorney General dated October 24, 1973. A majority of the board (members Tobiasz and Main dissenting) conclude the claim should be paid on equitable principles.

6. *Margaret A. Goss*, Personal Representative of the Estate of Leander M. Goss

Margaret A. Goss, Personal Representative of the Estate of Leander M. Goss, 204 East Grand Avenue, Eau Claire, Wisconsin 54701, claims \$257.52 for overpayment of inheritance taxes on June 7, 1973. Eau Claire County's share of the overpayment was \$15.45, and a recomputation of the inheritance tax by the Wisconsin Department of Revenue shows an overpayment to the State of Wisconsin of \$242.07. The board concludes the State should pay the reduced claim of \$242.07 on equitable principles.

7. *Alex Raineri*

Alex Raineri, Box 186, Hurley, Wisconsin 54534, claims \$1027.30 as fees for Public Administrator of Iron County, Wisconsin, for the period of July through December 1973. The fees were ordered paid by the Iron County Court, Judge Francis J. Fassino, presiding, on December 14, 1973. Claimant did not file for his fees, however, until after January 10, 1974. See Opinion of the Attorney General dated October 24, 1973. A majority of the board (members Tobiasz and Main dissenting) conclude the claim should be paid on equitable principles.

8. *Effie Appleby*

Effie Appleby, Fairhaven Home for Senior Citizens, Whitewater, Wisconsin 53190, claims \$25.00 for a painting missing from an exhibit on October 18 or 19, 1973 at the University of Wisconsin, Whitewater Mini-Gallery in the University Center. The board concludes the claim should be paid on equitable principles.

9. *Herman Saffold*

Herman Saffold, Controller, University of Wisconsin, Eau Claire, Eau Claire, Wisconsin 54701, claims \$44.20 for damages to his automobile on January 23, 1974, at the faculty parking lot #4 when a campus security agent attached jumper cables the wrong way to claimant's stalled car, damaging his alternator. This act of the security agent was beyond the scope of his employment, and the board concludes there is no evidence of negligence on the part of officers, agents or employees of the State while acting within the

JOURNAL OF THE SENATE [January 14, 1975]

scope of their employment, and that the claim is not one for which the State is legally liable, nor one which should be assumed and paid on equitable principles.

10. *Margaret F. Hood*

Margaret F. Hood, 580 West Cedar Street, Platteville, Wisconsin 53818, claims \$200.00 for a painting missing from the Gold Room of the University of Wisconsin, Platteville Student Center sometime between December 21, 1973, and January 8, 1974. The board finds the value of the missing painting to be \$100.00, and concludes the claim should be paid in the reduced amount of \$100.00 on equitable principles.

11. *Karen L. Karl*

Karen L. Karl, 707 Phoebe Street, Green Bay, Wisconsin 54303, claims \$15.60 for damage to her rings on February 15, 1974, when she fell at the L S Building at the University of Wisconsin, Green Bay. Her hand became swollen and the rings were cut off on her doctors advice. Her workmen's compensation claim did not cover the damage to her rings. The board concludes the claim should be paid on equitable principles.

12. *Edward G. Magin*

Edward G. Magin, 930 South 33rd Street, Milwaukee, Wisconsin 53215, claims \$764.05 for 84 glass art objects missing on October 23, 1973, from the University of Wisconsin, Milwaukee Union. Claimant pays 15% of his profits to the Craft Center for permission to sell the glass. Claimant was paid \$200.00 from a U.W.M. student fund in partial payment of his loss. The board finds the value of the glass, taking into consideration the cost of time, effort, and materials in its manufacture rather than its retail selling price, is \$382.00. Since partial reimbursement has been made through the student fund, the board concludes the claim in the reduced amount of \$182.00 should be paid on equitable principles.

13. *City of Milwaukee, Model Cities Agency*

City of Milwaukee, Model Cities Agency, 818 West Wisconsin Avenue, Milwaukee, Wisconsin 53233, claims \$330.60 for an electronic calculator missing on July 26, 1973, and a damaged coat rack and hangers belonging to the City of Milwaukee and in use at the office of the Work Incentive Program of the Wisconsin Department of Industry, Labor and Human Relations. A theft of the calculator was reported to the Milwaukee Police Department. The property was in the custody of the State when discovered

JOURNAL OF THE SENATE [January 14, 1975]

missing, stolen or damaged. The board concludes the claim should be paid on equitable principles.

14. *O' Bee Funeral Home*

The O' Bee Funeral Home, 2400 West Center Street, Milwaukee, Wisconsin 53206, claims \$150.00 for funeral services performed on November 23, 1971, for L. C. May, who was receiving public assistance. The Milwaukee County Department of Public Welfare paid \$210.00 toward the \$360.00 funeral bill. A representative of the State agreed to pay the balance of \$150.00, but there was no departmental fund available from which the payment could be made. The board concludes that the claim should be paid on equitable principles.

15. *John L. Steele*

John L. Steele, 5507 McKenna Road, Monona, Wisconsin 53716, claims \$128.28 for damages to his automobile occurring on February 11, 1974, at the parking lot adjacent to building 402 of the Wisconsin Air National Guard Base in Madison, Wisconsin. While claimant's automobile was parked in an authorized area it was hit by the Base fire truck. The board concludes the claim should be paid on equitable principles.

16. *Arthur W. Briede*

Arthur W. Briede, Route 1, Poynette, Wisconsin 53955, claims \$36.66 for damages to his automobile occurring on February 11, 1974, at the parking lot adjacent to building 402 of the Wisconsin Air National Guard Base in Madison, Wisconsin. While claimant's automobile was parked in an authorized area it was hit by the Base fire truck. The board concludes the claim should be paid on equitable principles.

17. *Aetna Insurance Company and Western Industries, Inc.*

The Aetna Insurance Company claims subrogation of \$386.93 and Western Industries, Inc. claims \$100.00 for damages to insured's automobile on August 10, 1973, when a gate to the Shoreline Road entrance to Peninsula State Park swung from its mooring and struck the car. The board concludes there is insufficient evidence of negligence on the part of officers, agents or employees of the State, and that the claim is not one for which the State is legally liable, nor one which should be assumed and paid on equitable principles.

18. *Wisconsin Fuel and Light Company*

Wisconsin Fuel and Light Company, 211 Forest Street, Wausau, Wisconsin 54401, claims \$159.15 for damages to a gas

JOURNAL OF THE SENATE [January 14, 1975]

main on October 30, 1973, at old Highway 51 north of County Trunk DB in the town of Dewey. An auger operated by the Department of Transportation hit the gas main while installing fence posts. The board concludes the claim should be paid on equitable principles.

19. *Albert L. Wheeler*

Albert L. Wheeler, 5313 Bremer Road, McFarland, Wisconsin 53558, claims \$62.40 for damages caused by wet paint spraying on his car when he crossed a newly painted stripe on Highway 51 near Milwaukee Street in Madison on October 29, 1973. The Department of Transportation truck painting the stripe had an arrow on it directing traffic to cross the line. The board concludes the claim should be paid on equitable principles.

20. *Kenneth Hastreiter*

Kenneth Hastreiter, Route 1, Box 54, Minocqua, Wisconsin 54548, claims \$106.00 for damages to his car caused by a bridge which had been washed out by beavers building a dam under it at State Highway 47 near Woodruff, Wisconsin on October 29, 1973. The board concludes there is not sufficient evidence of negligence by officers, agents or employees of the State, and the claim is not one for which the State is legally liable, nor one which should be paid on equitable principles.

21. *E. V. Banda*

E. V. Banda, 507 Division Street, Watertown, Wisconsin 53094, claims \$74.71 for damages to personal belongings used by him in conjunction with his employment as a state trooper which were destroyed by fire on March 5, 1974, along with his state cruiser. The board concludes the claim should be paid on equitable principles.

22. *Carroll and Vivian Peterson*

Carroll and Vivian Peterson, Sheridan, Wisconsin 54477, claim \$50.00 for a stale check dated April 27, 1967, issued in payment for a right of way. The board concludes the claim should be paid on equitable principles.

23. *Henry L. Williams*

Henry L. Williams, 1211 North 13th Street, Milwaukee, Wisconsin, claims \$10.00 for five books which were sent to him while at the Union Grove State Farm in October 1972. The institutional officers determined the books were not proper reading material for the claimant. The sender did not receive the books

JOURNAL OF THE SENATE [January 14, 1975]

back, although mailed to her. The board concludes the claim should be paid on equitable principles.

24. *West Bend Mutual Insurance Company*

West Bend Mutual Insurance Company, 1115 South Main Street, West Bend, Wisconsin, 53095 asserts a subrogation claim for \$162.34 for three watches stolen from their insured's jewelry store, and for the repair of glass damage. The damage was caused by a child under the care of foster parents on November 17, 1973, at Waupaca, Wisconsin. There is insufficient evidence of negligence on the part of officers, agents or employees of the State, and the claim is not one for which the State is legally liable. Also, consistent with the long-standing policy of this board in denying equitable recovery on all subrogation claims, this claim is denied.

25. *General Casualty Company*

General Casualty Company, 6230 West Capitol Drive, Milwaukee, Wisconsin 53216, asserts a subrogation claim of \$414.19 paid to its insured for damages to his car when it struck one of several cows that wandered from Union Grove Correctional Farm on County Trunk C in Racine County of September 23, 1973. There is insufficient evidence of negligence on the part of officers, agents or employees of the State, and the claim is not one for which the State is legally liable. Also, consistent with the long-standing policy of this board in denying equitable recovery on all subrogation claims, this claim is denied.

26. *Mrs. Brian Pooler*

Mrs. Brian Pooler, Tony, Wisconsin 54563, claims \$47.00 for her daughter's new coat which was torn when a foster child under the jurisdiction of the Wisconsin Division of Corrections hurled a beer bottle at her daughter on December 12, 1973, at the Flambeau High School. The board concludes the claim should be paid on equitable principles.

27. *Robert Flier*

Robert Flier, Route 1, Waupun, Wisconsin 53963, claims \$154.04 for damages to items which were thrown from the back of his truck by two foster children under the jurisdiction of the State. It is not clear the foster children were on runaway status. The incident occurred on November 21, 1973, on County Trunk AW near Waupun. The foster children took the claimant's truck from his farm and threw everything out of the truck while going down the road. The board concludes the claim should be paid on equitable principles.

JOURNAL OF THE SENATE [January 14, 1975]

28. *Aetna Casualty & Surety Company*

Aetna Casualty & Surety Company, 300 Alworth Building, Duluth Minnesota 55802, asserts a subrogation claim of \$33.35 paid to its insured for ties slashed on his automobile in Duluth, Minnesota, by a foster child from Wisconsin under the State's jurisdiction on June 28, 1973. There is insufficient evidence of negligence on the part of officers, agents or employees of the state, and the claim is not one for which the State is legally liable. Also, consistent with the long-standing policy of this board in denying equitable recovery on all subrogation claims, the claim is denied.

29. *Armin and Virginia Janz*

Armin and Virginia Janz, Route 1, Highbridge, Wisconsin 54846, claim \$394.00 damages for medical care resulting from a blow on the head of their daughter struck by a foster child under the jurisdiction of the State in February 1972 at Mellen, Wisconsin. The board concludes the claim should be paid on equitable principles.

30. *William J. Morris*

William J. Morris, Box 243, Madison, Wisconsin 53701, claims damages of \$584.80 to his stereo and other items at 19 North Franklin Street in Madison sometime in May 1973 caused by his foster child just prior to the child's eighteenth birthday. It is not clear that the foster child was on runaway status. The board finds the value of the property damage was \$388.55, and concludes the claim in the reduced amount of \$388.55 should be paid on equitable principles.

The Board Concludes the claims of the following claimants in the following amounts are justified under sec. 16.007 (6), Stats.:

John Wenning -----	\$ 78.00
Ralph N. Lazar -----	39.68
Mark T. Purcell -----	20.00
Casmere Koperski, Executor of the Estate of John Koperski -----	283.51
Margaret A. Goss, Personal Representative of the Estate of Leander M. Goss -----	242.07
Effie Appleby -----	25.00
Margaret A. Hood -----	100.00
Karen L. Karl -----	15.60
Edward G. Magin -----	182.00
City of Milwaukee, Model Cities Agency -----	330.60
O'Bea Funeral Home -----	150.00

JOURNAL OF THE SENATE [January 14, 1975]

John L. Steele -----	128.28
Arthur W. Briede -----	36.66
Wisconsin Fuel and Light Company -----	159.15
Albert L. Wheeler -----	62.40
E. V. Banda -----	74.71
Carroll and Vivian Peterson -----	50.00
Henry L. Williams -----	10.00
Mrs. Brian Pooler -----	47.00
Robert Flier -----	154.04
Armin and Virginia Janz -----	394.00
William J. Morris -----	388.55

The Board Concludes the payment of the following claims should be denied:

Herman Saffold
Aetna Insurance Company and Western Industries, Inc.
Kenneth Hastreiter
West Bend Mutual Insurance Company
General Casualty Company
Aetna Casualty & Surety Company

The Board Recommends that payment of \$121.26 be made to Rex M. Smith and payment of \$1027.30 be made to Alex Raineri for services they performed as Public Administrators.

Dated at Madison, Wisconsin, this 31st day of July, 1974.

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

JOURNAL OF THE SENATE [January 14, 1975]

BEFORE THE CLAIMS BOARD OF WISCONSIN

An executive session of the claims board was held in room 113 South, State Capitol Building, on Tuesday, July 16, 1974, concerning the resubmitted claim of Robert L. Borum dated May 13, 1974, and referring to an incident occurring on March 31, 1955.

Claimant was injured at the American Motors Corporation Plant in Kenosha, Wisconsin, on March 31, 1955. His workmen's compensation claim was heard on September 7, 1955, and resulted in an order which was affirmed by the Industrial Commission on November 30, 1955, later affirmed by the Dane County Circuit Court on May 19, 1958, and later affirmed by the Wisconsin Supreme Court on January 2, 1959.

Claimant filed another claim on March 10, 1959, which the Industrial Commission dismissed without a hearing. This action was affirmed by the Wisconsin Supreme Court on May 2, 1961.

Claimant filed subsequent claims on April 24, 1964, and January 28, 1969, and was foreclosed from a hearing or remedy. It is claimant's position that he has not been adequately compensated for his injuries. It is the opinion of at least one doctor that the claimant is now permanently disabled.

The hearing examiner who heard the original claim is now deceased, and the whereabouts of the claimant's workmen's compensation case file is not known.

In view of the fact that claimant's rights have been reviewed by the Wisconsin Supreme Court in:

Borum v. Industrial Commission (1959), 6 Wis. 2d 168 and
Borum v. Industrial Commission (1961), 13 Wis. 2d 570 and by
the United States District Court for the Eastern District of
Wisconsin in:

Borum v. American Motors Corporation (1969), 301 F. Supp.
255.

This Board Concludes

That claimant's claim is barred by res Judicata, and by Article VIII, Section 2, Wisconsin Constitution, which states in part that no appropriation shall be made for the payment of any claim against the state unless filed within six years after the claim accrued.

The Board Recommends that the claim be denied.

Dated at Madison, Wisconsin, this 31st day of July, 1974.

JOURNAL OF THE SENATE [January 14, 1975]

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

**State of Wisconsin
Claims Board**

July 11, 1974

Mr. Willaim Nugent
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Nugent:

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on May 20, 1974.

The amounts recommended for payment under \$500 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board. The Board is preparing the bills on the awards over \$500 and will submit them to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature as to the nature of the claims which come before it for consideration.

Sincerely
EDWARD D. MAIN
Secretary

JOURNAL OF THE SENATE [January 14, 1975]

BEFORE THE
CLAIMS BOARD OF WISCONSIN

Hearings were held in Madison, Wisconsin, On May 20, 1974,
upon the following claims:

<i>Claimant</i>	<i>Amount of Claim</i>
1. Nancy Mosgaller -----	\$ 84.96
2. William Eilers-----	110.00
3. Sawyer Farms, Inc. -----	800.00
4. Marshall & Ilsley Bank -----	8.87
5. Mrs. Jeanette Sterk -----	6.64
6. Raymond Bergwin, Executor-----	76.48
7. John J. Erjantz-----	24.27
8. Norma A. Meuer-----	123.27
9. Estate of Clara Fischer, Leonard Fischer, Personal Representative-----	157.09
10. Mathilde T. Brands, Personal Representative-----	2762.17
11. City of Greenfield -----	2933.63
12. Jerome W. Koenig -----	74.80
13. Sandra A. Pikulik -----	1863.30
14. Mrs. Darlene Brodjieski -----	208.00
15. Dewey F. Fuller, Jr. -----	73.70
16. William Nelson -----	36.00
17. Dale H. Klemme -----	48.43
18. Edward W. Turner-----	99.04
19. Roxann L. Biesack -----	48.20
20. Millard McRae -----	2292.90
21. State Farm Mutual Auto Insurance Company----- and Earl Bradley -----	630.50 21.80
22. State Farm Mutual Auto Insurance Company----- and Glenn Lemmers -----	1543.34 100.00

THE BOARD FINDS

1. *Nancy Mosgaller*

Nancy Mosgaller, 4037 North 67th Street, Milwaukee, Wisconsin, claims \$13.75 for medical treatment received after an accident on November 15, 1973, while being tested by the work sample unit of the Work Incentive Program in Milwaukee. She had been referred there for testing by the Wisconsin State Employment Service. The board concludes the claim should be paid on equitable principles.

JOURNAL OF THE SENATE [January 14, 1975]

2. *William Eilers*

William Eilers, 303 Highland, Elmhurst, Illinois, claims \$110.00 automobile damages caused by a tree hitting his truck on September 24, 1973, at the south entrance of Peninsula State Park. While driving through an open traffic lane the tree was felled across the road onto his truck by an employe of the Department of Natural Resources. Although there were traffic cones and falshers placed near the scene, the claimant had no warning of pending danger from falling trees. The board concludes the claim should paid on equitable principles.

3. *Sawyer Farms, Inc.*

Sawyer Farms, Inc. 521 North Hudson Avenue, Sturgeon Bay, Wisconsin claims \$800 for two years of orchard tree damage in 1972 and 1973 allegedly caused by deer on land located at Sec. 28 T 27N, R 26E in Sturgeon Bay Township, Door County, Wisconsin. The claim should be pursued under sec. 29.595, Stats., which provides the statutory remedy for such damage. The claim before the claims board accordingly is denied.

4. *Marshall & Ilsley Bank*

The Marshall & Ilsley Bank, 770 North Water Street, Milwaukee, Wisconsin claims \$8.87 for a check it cashed on August 10, 1973, payable to Gertrude K. Remlinger, but bearing a stale date of 10-28-66. The board concludes the claim should be paid on equitable principles.

5. *Mrs. Jeanette Sterk*

Mrs. Jeanette sterk, 601 North Superior Street, DePere, Wisconsin, claims \$6.64 for an uncashed check bearing a stale date of 5-12-67. The board concludes the claim should be paid on equitable principles.

6. *Raymond Bergwin, Executor*

Raymond Bergwin, Executor of the estate of Leonard C. Bergwin, P.O. Box 27, Sister Bay, Wisconsin, claims \$76.48 for excess inheritance taxes paid. The board concludes the excess payment to the State of Wisconsin was only \$72.07, and concludes the reduced claim should be paid on equitable principles. The balance of the excess payment was made to Door County.

7. *John J. Erjantz*

John J. Erjantz, 1065 S. Sunny Slope Road, Brookfield, Wisconsin, claims \$24.27 for an uncashed check bearing a stale date of 3-17-65. The board concludes the claim should be paid on equitable principles.

JOURNAL OF THE SENATE [January 14, 1975]

8. *Norma A. Meuer*

Norma A. Meuer, 2511 South Williams, Milwaukee, Wisconsin, claims \$123.17 for excess inheritance taxes paid on the termination of a joint tenancy with Fred P. Meuer, deceased. A recalculation by the Department of Revenue determines the correct amount of the excess taxes received by the State of Wisconsin to be \$97.31, and the board concludes the claim in the reduced amount should be paid on equitable principles.

9. *Leonard Fischer, Personal Representative*

Leonard Fischer, personal representative of the estate of Clara Fischer, deceased, 3675 South Quincy Avenue, Milwaukee, Wisconsin, claims \$157.09 for excess inheritance taxes paid. The correct amount of excess taxes paid to the State of Wisconsin is \$148.04, the balance having been paid to Milwaukee County. The board concludes the claim in the reduced amount should be paid on equitable principles.

10. *Mathilde T. Brands, Personal Representative*

Mathilde T. Brands, personal representative of the estate of Karl F. Brands, 702 Buttingham Place, Madison, Wisconsin, claims \$2,762.17 for excess inheritance taxes paid on an annuity which should have been excluded. A recalculation by the Department of Revenue determines the correct amount of excess taxes received by the State of Wisconsin to be \$2,567.70, which amount the board concludes should be paid on equitable principles.

11. *City of Greenfield*

The City of Greenfield claims \$2,933.63. In 1967 a portion of the income of an individual income taxpayer who had a business in Greenfield was erroneously allocated to the City of Wauwatosa instead of to the claimant. The claimant had until December 31, 1971, to pursue the statutory remedy provided under sec. 71.14, Wis. Stats., to correct this error, but failed to file any such claim. Because the statutes provided for an adequate remedy which was not diligently pursued, the board concludes the claim should be denied. (Member Tobiasz dissents).

12. *Jerome W. Koenig*

Jerome W. Koenig, 126 King Street, Neenah, Wisconsin, claims \$74.80 for the loss of a watch, repair to a wedding ring, medication and replacement of clothing when the cycle he was riding on duty as a trooper on July 4, 1973, became defective and threw him. Based on additional evidence presented, the board concludes the claim of \$74.80 should be paid on equitable principles.

JOURNAL OF THE SENATE [January 14, 1975]

13. *Sandra A. Pikulik*

Sandra A. Pikulik, 1524 South 56th Street, West Allis, Wisconsin, claims \$1,863.30. On August 10, 1973, a flagpole fell on her at State Fair Park. The pole was 1/2 inch x 15 feet long and carrying a banner as part of the mall's decoration. Some young men and boys had pulled out some of the poles and engaged in a scuffle. Claimant was near the scuffle. The State Fair Park security personnel responded to the situation with all reasonable effort. Claimant seeks reimbursement for medical costs of \$63.30, pain and suffering of \$800.00 and \$1,000.00 for a scar on her scalp. The board finds no negligence on the part of officers, agents or employes of the state, and the board concludes the claim is not one for which the state is legally liable, but concludes the medical costs of \$63.30 should be paid on equitable principles.

14. *Mrs. Darlene Brodjieski*

Darlene Brodjieski, 1821-30th Street, Kenosha, Wisconsin, claims \$208.00. On October 21, 1972, at the rest area on I-94 near Madison, her nine-year old son had a problem opening the bathroom door. Her eleven-year-old son worked to open the door, allegedly stuck from the humidity, and in the process the door was slammed into the mouth of the younger son, causing injury resulting in dental expenses. The claim was filed one year after the incident and the state was not in a position to check out the condition of the door at the time of the incident. The board concludes there is not sufficient evidence of negligence on the part of officers, agents or employes of the state, and the board concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

15. *Dewey F. Fuller, Jr.*

Dewey F. Fuller, Jr., 1227 Haslett Road, Haslett, Michigan, claims \$73.70 for damages to his car caused by a highway crew working on I-94 on September 19, 1973. A tractor with a rear mounted mower threw stones onto claimant's car. The board concludes the claim should be paid on equitable principles.

16. *William M. Nelson*

William M. Nelson, Route 3, Milltown, Wisconsin, claims \$36.00 for an uncashed state motor fuel tax refund check with a stale date of March 6, 1962. The board concludes the claim should be paid on equitable principles.

17. *Dale H. Klemme*

Dale H. Klemme, 521 West Washington Avenue, Madison, Wisconsin, claims \$48.43 because his car's muffler was allegedly

JOURNAL OF THE SENATE [January 14, 1975]

damaged by a manhole cover in a university parking lot on November 6, 1972. The manhole cover protrudes one to two inches, with banked pavement leading up to its edges. The parking stall has been in constant use for over 4 years without prior incident, and no corrective action is deemed necessary to change the stall. Claimant had purchased the used car only three days prior to losing his muffler. The board concludes there is insufficient evidence of negligence on the part of officers, agents or employees of the state, and the board concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

18. *Edward W. Turner*

Edward W. Turner, 2770 N. 56th Street, Milwaukee, Wisconsin, claims \$99.04 for a lost fishing tackle box and gear at the breakwater of the Sturgeon Bay ship canal on August 23, 1973. The University of Wisconsin boat "Aquarius" passed the claimant while fishing on the breakwater, causing a wave to ride over the top of the pier. Claimant was unable to react in time to prevent his tackle box from being swept over and lost. The board concludes that the cost of the loss should be shared by both the state and the claimant, and concludes that the claimant should receive \$50.00 on equitable principles.

19. *Roxann L. Biesack*

Roxann L. Biesack, 6408 Wander Lane, Racine, Wisconsin, claims \$48.20 for auto damages received at the parking lot of Southern Colony on June 14, 1973. The damage was caused by a resident who was seen placing a red wagon on the hood of claimant's car. He later was seen breaking off the car's antenna. The board concludes the claim should be paid on equitable principles.

20. *Millard McRee*

Millard McRee, Route 1, Mindoro, Wisconsin, claims \$2,292.90 for damages and expenses arising out of an incident occurring on August 19, 1973. A 16-year-old foster child living with claimant took claimant's tractor without permission to drive to town to buy some candy. The tractor was totally demolished on the way home, and after buying a replacement tractor which was unsatisfactory the claimant ultimately purchased a new tractor. The board concludes the claim in the reduced amount of \$495.00 should be paid on equitable principles.

21. *State Farm Mutual Automobile Insurance Company*

State Farm Mutual Automobile Insurance Company files a subrogation claim for \$630.50 plus \$21.80 for its insured, Earle H

JOURNAL OF THE SENATE [January 14, 1975]

Bradley, for damages to his car caused by three teen-aged boys under custody of the Wisconsin Department of Health and Social Services, but on runaway status. The car was stolen on September 23, 1973, and damaged in Waupaca, Wisconsin. The keys had been left in the car when stolen. It has been and remains the consistent policy of the claims board not to honor claims for subrogation nor claims for damages caused by persons on runaway status. The board finds there is not sufficient evidence of negligence on the part of officers, agents or employees of the state, and the board concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

22. *State Farm Mutual Automobile Insurance Company*

State Farm Mutual Automobile Insurance Company files a subrogation claim for \$1,643.73 plus \$100.00 for its named insured, Glen Lemmers, for damages to his car caused by a ward of the state who ran into the insured's car on September 11, 1973, on U. S. Highway 110 at Bluemound Drive in Grand Chute, Wisconsin. The ward was on runaway status at the time of the incident. The board finds there is not sufficient evidence of negligence on the part of officers, agents or employees of the state, and the board concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

THE BOARD CONCLUDES the claims of the following claimants in the following amounts are justified under sec. 16.007 (6), Stats:

Nancy Mosgaller-----	\$ 13.75
William Eilers -----	110.00
Marshall & Ilsley Bank -----	8.87
Mrs. Jeanette Sterk -----	6.64
Raymond Bergwin, Executor -----	72.07
John J. Erjantz -----	24.27
Norma A. Meuer -----	97.31
Leonard Fischer, Personal Representative-----	148.04
Jerome W. Koenig-----	74.80
Sandra A. Pikulik-----	63.30
Dewey F. Fuller, Jr. -----	73.70
William M. Nelson -----	36.00
Edward W. Turner -----	50.00
Roxann L. Biesack-----	48.20
Millard McRae-----	495.00

THE BOARD CONCLUDES the payment of the following claims should be denied:

Sawyer Farms, Inc.

City of Greenfield (4-1)

Mrs. Darlene Brodjiski

Dale H. Klemme

State Farm Mutual Automobile Insurance Company
and Earle I. Bradley

State Farm Mutual Automobile Insurance Company
and Glen Lemmers

THE BOARD RECOMMENDS that payment of \$2,567.70 be made to Mathilde T. Brands, personal representative, Estate of Karl F. Brands, deceased.

Dated at Madison, Wisconsin, this 18th day of June, 1974.

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

JOSEPH SENSENBRENNER
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

JOURNAL OF THE SENATE [January 14, 1975]

State of Wisconsin
Claims Board

July 25, 1974

Mr. Willaim Nugent
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Nugent:

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on August 28, 1973 and finalized on July 16, 1974.

The amounts recommended for payment under \$500 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board. The Board is preparing the bills on the awards over \$500 and will submit them to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature as to the nature of the claims which come before it for consideration.

Sincerely
EDWARD D. MAIN
Secretary

BEFORE THE CLAIMS BOARD OF WISCONSIN

Hearings were held at Madison, Wisconsin, on August 28, 1973, upon the following claims of conservation wardens of the Department of Natural Resources called upon pursuant to s. 22.165, Wis. Stats., to perform services at the University of Wisconsin in Whitewater and Madison during periods of civil disturbance in January and February of 1970 and 1971:

<i>Claimant</i>	<i>Claim</i>
Albers, Thomas W.	\$ 394.45
Amundson, James.....	372.84
Bjock, Donald W.	377.46
Braun, David C.	327.42
(2 claims)	179.10
Clark, Calvin E.	378.52
Gruber, Donald E.	333.00
Harter, Max J., Jr.	366.51

JOURNAL OF THE SENATE [January 14, 1975]

Hill, Edward L. -----	75.00
(2 claims)-----	611.01
Holmes, John -----	381.60
Jameson, Dennis G. -----	324.08
Keith, Larry L. -----	327.12
Knoke, Donald B. -----	356.89
Knudsen, Clifford L. -----	311.64
Kubisiak, Harold F. -----	384.45
Kubisiak, Ronald C. -----	294.44
Lichtenwalner, Harley J. -----	361.40
(2 claims)-----	45.36
Manthei, Edward A. -----	238.59
McGaver, John L. -----	333.84
Moe, Homer -----	403.76
Morey, Dale P. -----	132.00
Radke, Douglas-----	255.95
Schneider, Herbert J. -----	271.92
Smith, Robert H. -----	98.96
Smith, Robert H. -----	480.26
Wood, Norman B. -----	426.87
Zieman, Philip W. -----	385.31

THE BOARD FINDS that the portion of the above claims which are for crown control services should be compensated for on the basis of the applicable straight time which was being earned by each claimant, and concludes that the claims as adjusted below are those which in good conscience the state should assume and pay on equitable principles. These adjustments were made after a thorough examination of the records of the Department of Natural Resources by an employee of the Department of Administration. The claims have been adjusted to result in straight time compensation for crowd control services rendered by claimants beyond their eight hour scheduled workdays, less compensatory time earned. No compensation is awarded for non-crowd control services, nor for the first eight hours of services performed on scheduled workdays. Compensatory time earned has been deducted from the hours of crowd control services rendered on non-scheduled workdays.

JOURNAL OF THE SENATE [January 14, 1975]

THE BOARD CONCLUDES payment of the following amounts to the following claimants, respectively, is justified under s. 16.007 (6), Wis. Stats.:

<i>Claimant</i>	<i>Amount</i>
Albers, Thomas w. -----	\$ 182.92
Amundson, James-----	124.64
Bjock, Donald W.-----	139.83
Braun, David C.-----	107.20
(2 claims)-----	55.85
Clark, Calvin E.-----	134.83
Gruber, Donald E.-----	208.82
Harter, Max, J., Jr.-----	210.11
Hill, Edward L.-----	51.67
(2 claims)-----	273.76
Holmes, John-----	105.59
Jameson, Dennis G.-----	171.68
Keith, Larry L.-----	87.78
Knoke, Donald B.-----	199.86
Knudsen, Clifford L.-----	168.30
Kubisiak, Harold F.-----	144.68
Kubisiak, Ronald C.-----	128.55
Lichtenwalner, Harley J.-----	129.86
(2 claims)-----	38.95
Manthei, Edward A.-----	91.62
McGaver, John L.-----	115.78
Moe, Homer-----	144.48
Morey, Dale P.-----	44.03
Radke, Douglas-----	107.04
Schneider, Herbert J.-----	181.48
Smith, Robert H.-----	65.98
Smith, Robert H.-----	255.54

The board further concludes that there should be paid on behalf of each claimant, in addition to the adjusted amounts set forth above, the appropriate employer contributions for retirement and social security.

The Department of Natural Resources is directed to prepare the necessary payroll for payment of the above claims from normal payroll accounts in the conservation fund. Subsequently, the Department of Natural Resources shall be reimbursed for said amount from general purpose revenues pursuant to the appropriation made by s. 20.505 (3) (a), Wis. Stats., upon proper

JOURNAL OF THE SENATE [January 14, 1975]

application, the board finding that payment from the conservation fund would jeopardize the programs its supports.

Dated at Madison, Wisconsin, this 16th day of July, 1974.

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

JOSEPH SENSENBRENNER
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

**State of Wisconsin
Claims Board**

September 26, 1974

Mr. Willaim Nugent
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Nugent:

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on August 27, 1974.

The amounts recommended for payment under \$500 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board. The Board is preparing the bills on the awards over \$500 and will submit them to the Joint Finance Committee for legislative introduction.

JOURNAL OF THE SENATE [January 14, 1975]

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature as to the nature of the claims which come before it for consideration.

Sincerely
 EDWARD D. MAIN
 Secretary

BEFORE THE
 CLAIMS BOARD OF WISCONSIN

<i>Claimant</i> -----	<i>Amount of Claim</i>
1. Dwight C. Coplien -----	\$ 32.90
2. Mrs. Bonita A. Bodway -----	105.50
3. Michael R. Komisky -----	312.66
4. Katherine Menzer -----	7.50
5. William J. Schultz -----	400.00
6. Christian Abrahamsen -----	10423.00
7. Cathi Murphy -----	100.00
8. Kenneth L. Harris -----	52.00
9. Dean H. Fraser -----	25.35
10. Dale B. Bossenberry -----	391.51
11. Clyde W. Pfeffer and Harry H. Zeigel -----	166.06
12. Donald G. Kramer -----	12.80
13. Eugene Killian -----	41.65
14. Ella S. Meyer (Estate of) -----	43.80
15. Laura L. Jordan -----	771.56
16. Donald T. Smiley -----	45.35
17. Joseph C. Arnold -----	145.00
18. Mrs. Myrtle Billiard -----	80.68
19. Leonard O'Connell -----	153.71
20. Lawrence Winchell -----	57.09
21. Moravian Church -----	31.00

THE BOARD FINDS

1. *Dwight C. Coplien*

Dwight C. Coplien, 1336 25th Avenue, Monroe, Wisconsin, claims \$32.90 for damages to his parked car on June 4, 1974, at parking lot W at Camp McCoy, Wisconsin, when a military (Wisconsin ARNG) vehicle struck the rear of claimant's car. The board concludes the claim should be paid on equitable principles.

JOURNAL OF THE SENATE [January 14, 1975]

2. *Mrs. Bonita A. Bodway*

Mrs. Bonita A. Bodway, R.R. #2, Box 531, Menasha, Wisconsin, claims \$105.50 for medical services resulting from injuries when she fell at the entrance to the Employment Security Office Building (DILHR) at 1313 Midway Road, Menasha, Wisconsin on May 20, 1974. The board concludes the claim should be paid on equitable principles.

3. *Michael R. Komisky*

Michael R. Komisky, 155 South Oak Street, Spokane, Washington, claims \$312.66, plus interest, for his World War I veterans bonus. Claimant entered military service on October 24, 1917, and was discharged on July 16, 1920. He served in the Russian Railway Service Corps. In Hoskin v. Resor (D. C., D. C. 1971), 324 F. Supp. 271, it was held that members of the Corps were part of the U. S. Army during World War I. Prior to that decision, which was not appealed, Corps members had not been considered members of the U. S. Army during World War I, and this was the apparent reason why the bonus had not been paid originally. The claim cannot be paid from the current Veterans' Trust Fund. See OAG 3/29/74. The board concludes the claim in the amount of \$312.66 should be paid from the general fund on equitable principles.

4. *Katherine Menzer*

Katherine Menzer, Personal Representative of Christ Bearns, deceased, c/o South West State Bank, Box 816, Sheboygan, Wisconsin, claims \$7.50 for three stale checks of Christ Bearns dated 10/29/62, 9/14/61/ and 2/14/62 found by her as his personal representative after his death. The board concludes the claim should be paid on equitable principles.

5. *William J. Schultz*

William J. Schultz, 136 South Hartwell AVENUE, Waukesha, Wisconsin, claims \$400.00 for his 1965 Chevrolet which was damaged in a traffic accident on June 29, 1973, in Wauwatosa, Wisconsin. Although claimant alleges the traffic signal was showing green in both directions, competent evidence presented to this board causes the board to find that this was not the fact. The board finds that the signal could have gone off altogether, but that it would be mechanically impossible for the signal to show green in both directions. The board finds there was not failure of operation of the signal, and that the accident more likely was caused in anticipation of the light turning. The board finds there is insufficient evidence of negligence on the part of officers, agents or

JOURNAL OF THE SENATE [January 14, 1975]

employees of the State, and concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

6. *Christian Abrahamsen*

Christian Abrahamsen, 441, N. Patterson, Madison, Wisconsin, claims \$10,000 for services rendered from April to October 1970, plus \$423.00 for the cost of a frame. Claimant had made an agreement with the University of Wisconsin to restore the portrait originally painted by the claimant in the early 1920's of Edward A. Brige who was president of the University from 1918-1925. The portrait had been damaged, and the claimant approached the University and agreed to restore it for \$900.00. Once he began the restoration, the claimant realized the task was greater than originally anticipated. However, no arrangements were made to complete the project on any other basis than the original terms agreed upon. The frame was purchased for the portrait at a cost of \$423.00 to the claimant. The University points out that because of restrictions in regard to letting contracts without bids, the University was limited as to what it could expend for any restoration without going through the bid letting procedure. Also, the University may well not have agreed to have the restoration performed if it had known its cost would be anywhere near as high as the amount now claimed. The board finds that the claimant is entitled to receive for his services only that amount originally agreed upon, which this board finds to be \$900.00 plus \$423.00 for the frame, or a total of \$1,323.00. Since the University previously has tendered payment for \$1,200.00 which claimant has refused to accept, the board requests that the University tender payment for the full \$1,323.00, and that this board be advised of the results of such tender prior to the introduction of any legislation in regard to this claim.

7. *Cathi Murphy*

Cathi Murphy, 711 Chadbourne Hall, Madison, Wisconsin, claims \$100.00 for skiing equipment used for a physical education course at the University of Wisconsin. She voluntarily placed the equipment in the custody of someone who agreed to transport the equipment for her, and the equipment was lost between February 13-27, 1974. The service was available at the student's risk at no cost to the claimant, and she was not required to use the service. The board finds there is insufficient evidence of negligence on the part of officers, agents or employees of the state, and concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

JOURNAL OF THE SENATE [January 14, 1975]

8. *Kenneth L. Harris*

Kenneth L. Harris, 3421 W. Mt. Vernon Avenue, Milwaukee, Wisconsin, claims \$52.00 for a watch which was missing from the information desk at the U. W.-Milwaukee fieldhouse on January 24, 1974, where claimant had left it for safekeeping. The board finds the watch was being stored as an accomodation to the claimant free of charge, and that not employee of the state had authority to assure its safekeeping. The board finds there is insufficient evidence of negligence on the part of officers, agents or employes of the state, and concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

9. *Dean H. Fraser*

Dean H. Fraser, 202 South Cook Street, Barrington, Illinois, claims \$25.35 for damages to his parked car on April 1-6, 1974, at the University Hospital Parking Lot. Claimant parked the car himself and left the car in the designated area while a patient in the hospital. The car apparently was damaged by unknown third persons. The board finds there is not showing of negligence on the part of officers, agents or employes of the state and concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

10. *Dale B. Bossenberry*

Dale B. Bossenberry, 390 Munn Road, Madison, Wisconsin, claims \$391.51 for damages to his car on May 4, 1974, at the U. W. parking ramp at Park Street and Langdon when he struck an unmarked cement pole which has since been painted for easier identification. It appears claimant would have a proper claim with his insurer, less \$100.00 deductible, but claimant has not made any such claim for payment from his insurance carrier. The board concludes the claim is not one for which the state is legally liable, but concludes \$100.00 of the claim should be paid on equitable principles.

11. *Clyde W. Pfeffer, Executor*

Clyde W. Pfeffer, Executor, and Harry H. Zeigel, c/o Attorney John C. Savage, claim \$166.06 for overpayment of inheritance taxes on May 26, 1970, in the Estate of Edwin K. Braun, deceased. A tax was erroneously paid on behalf of Harry H. Ziegel, who received an annuity from the Wisconsin Retirement Fund Annuity, which annuity was exempt from inheritance taxation. The Department of Revenue has computed the correct amount of the overpayment to

JOURNAL OF THE SENATE [January 14, 1975]

be only \$148.72, and the board concludes the claim in the reduced amount of \$148.72 should be paid on equitable principles.

12. *Donald G. Kramer*

Donald G. Kramer, 159 Caledonia Street, LaCrosse, Wisconsin, claims \$12.80 for two stale checks dated April 22, 1966, and April 7, 1967. The board concludes the claim should be paid on equitable principles.

13. *Eugene Killian*

Eugene Killian, 833 East Main Street, Arcadia, Wisconsin, claims \$41.65 for a stale check dated February 21, 1967. The board concludes the claim should be paid on equitable principles.

14. *Mrs. Marion Chier*

Mrs. Marian Chier, Administrator of the Estate of Ella S. Meyer, deceased, Green Lake, Wisconsin, claims \$43.80 for overpayment of inheritance taxes. The original inheritance tax payment was delinquent and the discount is not allowable. The Department of Revenue has computed the correct amount allowable as \$24.72, and the board concludes the claim in the reduced amount of \$24.72 should be paid on equitable principles.

15. *Laura L. Jordan*

Laura L. Jordan, surviving joint tenant and widow of Theodore C. Jordan, deceased, 435 Fremont Street, East Troy, Wisconsin, claims \$771.56 for overpayment of inheritance taxes due to the erroneous inclusion of the Trent Tube Profit Sharing Trust benefit under which plan the claimant was the named beneficiary. After subtracting the county's share of the overpayment, the Department of Revenue determines the amount of inheritance taxes overpaid to the state was \$727.05, and the board concludes the claim in the reduced amount of \$727.05 should be paid on equitable principles.

16. *Donald T. Smiley*

Donald T. Smiley, Lake Mills, Wisconsin, claims \$43.35 for a stale check dated June 14, 1968. The board concludes the claim should be paid on equitable principles.

17. *Joseph C. Arnold*

Joseph C. Arnold, Route 1, Sparta, Wisconsin, claims \$145.00 for damage to his 1962 Chevrolet on April 28, 1974, as the result of an accident on I 90-94. Claimant's car was stolen by three boys from the Wisconsin Child Center who were on runaway status. Claimant's keys were in the car when stolen. The police and sheriff departments were notified of the escape. The board finds there is

JOURNAL OF THE SENATE [January 14, 1975]

no showing of negligence on the part of officers, agents or employs of the state, and the board concludes the claim is not one for which the state is legally liable, nor one which should be paid on equitable principles.

18. *Mrs. Myrtel Billiard*

Mrs. Myrtle Billiard, 115 South Grove Street, Chippewa Falls, Wisconsin, claims \$80.68 for replacing the rear window of her car damaged on May 15, 1974, at parking lot A of Northern Colony when a lawn mover operated under the supervision of the state threw gravel onto the car. The board concludes the claim should be paid on equitable principles.

19. *Leonard O'Connell*

Leonard O'Connell, 422 North Grove Street, Chippewa Falls, Wisconsin, claims \$153.71 for damage to his car on June 24, 1973, at parking lot 3 of Northern Colony when a tractor operated under the supervision of the state ran into the parked car. The board concludes the claim should be paid on equitable principles.

20. *Lawrence Winchell*

Lawrence Winchell, 1016 Silver Street, DePere, Wisconsin, claims \$57.09 for the use of his car during the week of June 2, 1974, by inmates of Oneida Camp where claimant was employed as night officer. Claimant was assaulted by three inmates and locked in a storage room. Since this occurrence arrangements have been made for the night officer on duty to take a state vehicle to the Oneida Camp. The board concludes the claim should be paid on equitable principles.

21. *Moravian Church*

Moravian Church, 323 South 5th Avenue, Sturgeon Bay, Wisconsin, claims \$20.00 for reimbursement of a permit fee, plus \$10.00 for late reimbursement of the fee by the state, plus \$1.00 for postage expenses. The claimant asserts it was erroneously informed to pay a fee for a restaurant permit which it applied for on November 20, 1973, from the Department of Health and Social Services. An opinion of the Attorney General to that Department dated June 10, 1974, advised the Department that it was not required to refund fees to any of the approximately 140 churches and other organizations which were issued restaurant permits since the November 20, 1973, act of the Joint Committee for Review of Administrative Rules did not affect the validity of sec. H 96.02 (15), Wis. Adm. Code, which (along with secs. 160.01 (3) and 160.03 (3), Stats.) provides that churches and other organizations which prepare and serve meals four or more days during a twelve-

JOURNAL OF THE SENATE [January 14, 1975]

month period must apply for and secure restaurant permits. Section 160.01 (3), Stats., defines restaurants to include churches unless they "occasionally prepare or serve or sell meals or lunches to transients or the general public." Section H 96.02 (15), Wis. Adm. Code defines occasional as "less than 4 days during any 12-month period." Section 160.03 (3), Stats., sets the fee for all places coming under the definition of a restaurant at \$20.00 if their anticipated gross annual food sales are less than \$5,000. Although the evidence presented to this board shows that a permit was required in this instance on November 20, 1973, it is for the Department of Health and Social Services to determine under the facts of any particular situation whether a restaurant permit shall be required and this board will not interject its judgment on such a decision. This board does conclude, however, that the state is not legally liable for the payment of the claim in the instant case because of the action of the Joint Committee for Review of Administrative Rules on November 20, 1973, and further concludes the claim is not one which should be paid on equitable principles.

THE BOARD CONCLUDES the claims of the following claimants in the following amounts are justified under sec. 16.007 (6), Stats.:

Dwight C. Coplien-----	\$ 32.90
Mrs. Bonita Bodway -----	105.50
Michael R. Komisky -----	312.66
Katherine Menzer-----	7.50
Dale B. Bossenberry-----	100.00
Clyde W. Pfeffer, Executor of the Estate of Edwin K. Braun, deceased -----	148.72
Donald G. Kramer-----	12.80
Eugene Killian-----	41.65
Mrs. Marion Chier, Administrator of the Estate of Ella S. Meyer, deceased -----	24.72
Donald T. Smiley -----	45.35
Mrs. Myrtle Billiard-----	80.68
Leonard O'Connell -----	153.71
Lawrence Winchell -----	57.09

THE BOARD CONCLUDES the payment of the following claims should be denied:

William J. Schultz
Cathi Murphy
Kenneth L. Harris
Dean H. Fraser

JOURNAL OF THE SENATE [January 14, 1975]

Joseph C. Arnold
Moravian Church

THE BOARD RECOMMENDS that payment of \$727.05 be made to Laura L. Jordan, surviving joint tenant and widow of Theodore C. Jordan for overpayment of inheritance taxes to the state.

THE BOARD RECOMMENDS that payment of \$1,323.00 be made to Christian Abrahamsen for services rendered to the University of Wisconsin and for the cost of a picture frame, and further recommends that the University of Wisconsin tender payment to him in that amount before the introduction of any legislation in regard to his claim.

Dated at Madison, Wisconsin, this 26th day of September, 1974.

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

JOSEPH SENSENBRENNER
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

BEFORE THE CLAIMS BOARD OF WISCONSIN

Hearings were held at Madison, Wisconsin, on Tuesday, July 16, 1974, and Tuesday, August 27, 1974, upon the following claims for fees as public administrators:

Rex M. Smith, 722 Fifth Avenue, Antigo, Wisconsin, claims \$121.26 for fees as special Public Administrator for Langlade County, Wisconsin, for the period of June through December 1973. Claimant filed application for fees to the Langlade County Treasurer on January 23, 1974, as soon as he received a response from the Department of Revenue to his letter of January 3, 1974,

JOURNAL OF THE SENATE [January 14, 1975]

which enabled him to prepare his petition for fees. The fees were ordered paid by the Langlade County Court, Honorable Ralph J. Strandberg, County Judge, presiding, on January 23, 1974. See Opinion of the Attorney General dated October 24, 1973. A Majority of the board (members Tobiasz and Main dissenting) conclude the claim should be paid on equitable principles.

Alex Raineri, Box 186, Hurley, Wisconsin, claims \$1,027.30 for fees as Public Administrator of Iron County, Wisconsin for the period of July through December 1973. The fees were ordered paid by the Iron County Court, Honorable Francis J. Fassino, County Judge, presiding, on December 14, 1973. Claimant did not file for his fees, however, until January 10, 1974. See Opinion of the Attorney General dated October 24, 1973. A Majority of the board (members Tobiasz and Main dissenting) conclude the claims should be paid on equitable principles.

Patrick T. Sheedy, 110 E. Wisconsin Avenue, Milwaukee, Wisconsin, claims \$12,090.52 for fees as Public Administrator for Milwaukee County, Wisconsin, for the period ending December 31, 1973. The fees were ordered paid by the Milwaukee County Court, Honorable Michael T. Sullivan, County Judge, presiding, on January 9, 1974. However, the Milwaukee County Treasurer had submitted all monies to the Department of Revenue on January 9, 1974, before honoring the order for payment of fees. See Opinion of Attorney General dated October 24, 1973. A majority of the board (members Tobiasz and Main dissenting) conclude the claim should be paid on equitable principles.

THE BOARD RECOMMENDS payment of \$121.26, \$1,027.30 and \$12,090.52 be made to Rex M. Smith, Alex Raineri and Patrick T. Sheedy, respectively, for services they performed as public administrators.

Dated at Madison, Wisconsin this 20th day of September, 1974.

JOURNAL OF THE SENATE [January 14, 1975]

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

JOSEPH SENSENBRENNER
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

State of Wisconsin
Claims Board

October 29, 1974

Mr. Willaim Nugent
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Nugent:

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on October 8, 1974.

The amounts recommended for payment under \$500 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board. The Board is preparing the bills on the awards over \$500 and will submit them to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature as to the nature of the claims which come before it for consideration.

Sincerely
EDWARD D. MAIN
Secretary

JOURNAL OF THE SENATE [January 14, 1975]

BEFORE THE
CLAIMS BOARD OF WISCONSIN

<i>Claimant</i>	<i>Amount of Claim</i>
1. Bashir Ahmad-----	\$ 426.52
2. James Suick-----	255.32
3. Aetna Life and Casualty Co.-----	1208.26
4. James Crocker-----	496.35
5. Frances June Patterson-----	39.55
6. Jean Martin-----	380.85
7. Edward Dugan-----	74.88
8. Rock County Department of Social Services-----	75.00
9. Elaine Heidemann-----	5.20
10. Marvin Engler-----	201.36
11. Mrs. Merle Efferding-----	61.72
12. James M. Conklin-----	61.85

1. *Bashir Ahmad*

Bashir Ahmad, 5209 South Hill Drive, Madison, Wisconsin, claims \$426.52 for damages caused by a foster child in his home who damaged living room curtains and a chair in April 1974, and who caused damage to the claimant's automobile on June 28, 1974, in New York City by opening the door in traffic. The child was under the jurisdiction of Dane County in April 1974, and the State is not liable nor morally obligated to pay for the damages incurred at that time. The damage to the claimant's car occurred while the child was in the custody of the State, however, and the board concludes the claim in the amount of \$276.52 should be paid on equitable principles.

2. *James Suick*

James Suick, Highway 45 North, Antigo, Wisconsin, claims \$255.32 for damages to replace a window broken on July 11, 1974, in the Superior Street Building in Antigo, Wisconsin by Richard Lee Mount, who put his fist through it after an alleged fight with his girl friend and drinking. Although Richard Lee Mount was in the technical custody of the State, he was 17 years of age and living independently in his own private quarters. He was not living in the home of foster parents, and was under only limited control by the State. There is an insufficient showing of negligence on the part of the State, its officers, agents and employes, and the board concludes the claim is not one for which the State is legally liable, nor one which should be paid on equitable principles.

JOURNAL OF THE SENATE [January 14, 1975]

3. *Aetna Life & Casualty Company*

Aetna Life & Casualty Company, 710 First National Building, 2nd and Main Streets, Davenport, Iowa, claims \$1,208.26 for an overpayment with respect to the confinement of Scott Turner at Mendota State Hospital from May 3 to December 15, 1972. Section 46.10 (14), Wis. Stats., provides that liability for costs for care and maintenance of patients under 18 years of age confined at Mendota State Hospital shall not exceed \$60 per month. Also, the terms of the insurance contract limited liability to \$2.00 per day. The general rule as stated in Couch on Insurance (2), Vol. 18, page 364 is: "As insurer is not entitled to recover a payment made by it under a mistake of law." Accordingly, the board concludes the claim is not one for which the State is legally liable, nor one which should be paid on equitable principles.

3. *James E. Crocker*

James E. Crocker, 424 East Nott Street, Tomah, Wisconsin, claims \$496.53 for roof damage on September 13, 1973, to a hog house on his farm at Route 3, Sparta, Wisconsin, caused by falling trees owned by the State. Prior to the accident the claimant had warned the State of the pending danger. In addition to the estimate for damages submitted by the claimant, the Department of Natural Resources introduced evidence showing that the damage could be repaired for \$137.45. Another estimate showed that the same materials called for in the claimant's estimate could be purchased elsewhere near the claimant's home for less. The claimant seeks the entire replacement of a partially worn out roof, but the board finds the fair measure of damages is \$200.00, and concludes the claim in the reduced amount of \$200.00 should be paid on equitable principles.

5. *Frances June Patterson*

Frances June Patterson, Route 2, Cambridge, Wisconsin, claims \$39.55 for medical expenses incurred after she stepped into a post hole on July 13, 1974 at Lake Kegonsa State Park. Three or four post holes were filled subsequent to the accident; apparently, they had been placed there by the prior owner, and were concealed in the grass. The board concludes the claim should be paid on equitable principles.

6. *Jean Martin*

Jean Martin, Route 2, Greenleaf, Wisconsin, claims \$380.85 for medical expenses and for pain and suffering as the result of a horse stepping on her foot at State Fair Park on August 10, 1973. The horse was being ridden by a member of the Horse Patrol of the Wisconsin State Fair Park Police Department. The board

JOURNAL OF THE SENATE [January 14, 1975]

concludes that portion of the claim related to medical expenses in the amount of \$80.85 should be paid on equitable principles, and the balance of the claim is denied.

7. *Edward D. Dugan*

Edward D. Dugan, 629 South Baird, Green Bay, Wisconsin, claims \$74.88 for damages to his car resulting from a "blow up" on July 6, 1974, on Highway 57 about 10 miles north of Green Bay. The cause of highway "blow ups" is unknown, although they usually occur on extremely hot days. Their cause cannot be attributed to construction defects, but are more in the nature of "Acts of God". The State was not aware of the blow up until after this accident. There is not sufficient showing of negligence on the part of officers, agents or employes of the State, and the board concludes the claim is not one for which the State is legally liable, nor one which should be paid on equitable principles.

8. *Rock County Department of Social Services*

Rock County Department of Social Services, 306 West Milwaukee Street, Janesville, Wisconsin, claims \$75.00 for a stale date check issued by the Division of Highways for Award for Scenic Easement on the Nora Phillips property pursuant to a relocation order of the Highway Commission dated March 2, 1964. The Rock County Department of Social Services furnished Old Age Assistance to the owner of the property and had a rightful lien claim against the property, as evidenced by a judgement of the Rock County Court allowing said claim. The board concludes the claim should be paid on equitable principles.

9. *Elaine Heidemann*

Elaine Heidemann, Route 2, Beaver Dam, Wisconsin, claims \$5.20 for damage to her car caused by wet paint on the merge line of Highways 151 and 33 near Beaver Dam on June 12, 1974. There were no signs or other warnings of the recently applied wet paint. The board concludes the claim should be paid on equitable principles.

10. *Marvin E. Engler*

Marvin E. Engler, 4835 North Iroquois, Milwaukee, Wisconsin, claims damages of \$201.36 to his car when it hit an unmarked hole in exit ramp 291 leaving I-94 west on August 23, 1974. Subsequent repair was made to a strip along the road approximately 50 feet long and 2 1/2 feet wide. Over 90% of the hole, which was approximately 1 1/2 feet by 1 1/2 feet by 8 inches deep, was in the hard surfaced area and only 10% was in the gravel shoulder. Although the damage may not have been as great if the claimant

was going slower, the hole was on a curve and could not have been seen in time to be avoided when travelling at a reasonable speed. The hole did not seem to have been caused by a washout, and apparently had been in existence for some time. The board concludes the claim should be paid on equitable principles.

11. *Mrs. Merle Efferding*

Mrs. Merle Efferding, 349 Harvey Avenue, Waukesha, Wisconsin, claims \$61.72 for damage to her car on August 8, 1974, at the Waukesha Office of the Motor Vehicle Department when the valance of her car became hooked up on the reenforcing rod of a poorly maintained curb at a designated test parking place. The claimant was insured for \$11.72 of his loss, and the board concludes the balance of her claim in the amount of \$50.00 should be paid on equitable principles.

12. *James M. Conklin*

James M. Conklin, 5414 South Hill Drive, Madison, Wisconsin, claims \$1.85 for damages to his car on July 23, 1974, on Highway 18 between Montfort and Fennimore caused by a freshly applied seal coating job. The automobile ahead of claimant's car threw gravel and broke claimant's headlight. Claimant's car also received paint chips and tar damage. Adequate standard road danger signs had been posted in the area, and it appears that claimant was following the car ahead of him too closely and was going too fast under the circumstances. There is not a sufficient showing of negligence on the part of officers, agents and employes of the State, and the board concludes the claim is not one for which the State is legally liable, nor one which should be paid on equitable principles.

A Hearing was also held at the State Capitol Building on May 20, 1974, upon the claim of the Jackson County Soil and Water Conservation District, Black River Falls, Wisconsin, for damages of \$908.85 caused when beavers plugged a pipe in July 1972 and caused damage to nearby lands. The Department of Natural Resources used dynamite in an attempt to free the pipe. Under sec. 29.59 (1), Wis. Stats., the Department has authority to capture and remove beaver causing damage to lands, and under sec. 29.60 (3), Wis. Stats., the use of dynamite is allowed. The claimant admits it had the responsibility for maintaining the structure in which the pipe was located, and the claimant was responsible for removing the debris. The claimant requested the State to remove the debris for it. The damage could have been avoided if the claimant had taken more timely action on its own. It appears that the damage to the structure was a necessary result of the claimant's delay in timely

JOURNAL OF THE SENATE [January 14, 1975]

pursuing its maintenance responsibilities, and the State should not be responsible under the circumstances. There is not sufficient evidence of negligence on the part of officers, agents or employees of the State, and the board concludes the claim is not one for which the State is legally liable nor one which should be paid on equitable principles.

THE BOARD CONCLUDES the claims of the following claimants in the following amounts are justified under sec. 16.007 (6), Wis. Stats.:

Bashir Ahmad -----	\$276.52
James E. Crocker -----	200.00
Frances June Patterson -----	39.55
Jean Martin -----	80.85
Rock County Department of Social Services ----	75.00
Elaine Heidemann -----	5.20
Marvin E. Engler -----	201.36
Mrs. Merle Efferding -----	50.00

THE BOARD CONCLUDES the payment of the following claims should be denied:

James Suick

Aetna Life and Casualty Company

Edward Dugan

James M. Conklin

Jackson County Soil and Water Conservation District

Dated at Madison, Wisconsin, this 23rd day of October, 1974.

JOURNAL OF THE SENATE [January 14, 1975]

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

JOSEPH SENSENBRENNER
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

Senate Petition 1

A resolution by the Door County Board of Supervisors opposing the "Statement of Intent" contained in Chapter Law 331, Laws of 1973, if the Legislature considered this Chapter as taking the interest of the public into account.

By Senator Martin.

Read and referred to the joint committee on Finance.

Senate Petition 2

A resolution by the Door County Board of Supervisors opposing any federal or state legislation which would remove land use planning from local control.

By Senator Martin.

Read and referred to the committee on Natural Resources.

Senate Petition 3

A resolution by the Door County Board of Supervisors recommending that the State Legislature amend Sec. 60.55 of the Wisconsin Statutes to provide for a basic process of service fee in the sum of \$4 with mileage at the rate of 12c per mile.

By Senator Martin.

Read and referred to the committee on Judiciary and Consumer Affairs.

Senate Petition 4

A resolution by the Door County Board of Supervisors favoring an amendment to the provisions of Wisconsin Statutes, 59.13 (1) to require County Board Supervisors to take and file the official oath

JOURNAL OF THE SENATE [January 14, 1975]

within 20 days after the commencement of the term the supervisor was elected or appointed; and favoring the present law exempting County Board Supervisors from executing and filing an official bond.

By Senator Martin.

Read and referred to the committee on Governmental and Veterans' Affairs.

Senate Petition 5

A resolution by the Door County Board of Supervisors favoring a change in Wisconsin Statute 59.04 (2) providing that all counties are treated uniformly, and that all counties are able to use the 48 hour requirements for special meetings and emergency.

By Senator Martin.

Read and referred to the committee on Governmental and Veterans' Affairs.

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

January 10, 1975.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advice and consent of the Senate do appoint Arthur DeBardeleben, of Park Falls, as a member of the University of Wisconsin Board of Regents, to succeed Roland Day, to serve for the term ending May 1, 1981.

Sincerely,
PATRICK J. LUCEY
Governor

Read and referred to the committee on Education.

State of Wisconsin
Office of the Governor
Madison, Wisconsin

January 10, 1975.

To the Honorable, the Senate:

JOURNAL OF THE SENATE [January 14, 1975]

Pursuant to the provisions of the statutes governing, I have nominated and with the advice and consent of the Senate do appoint Mary Walter, of Baileys Harbor, as a member of the University of Wisconsin Board of Regents, to succeed W. Roy Kopp, to serve for the term ending May 1, 1981.

Sincerely,
PATRICK J. LUCEY
Governor

Read and referred to the committee on Education.

MOTIONS

By request of Senator Thompson, with unanimous consent, **Senate Bill 3** was withdrawn from the committee on Agriculture, Human Services, Labor and Taxation and referred to the committee on Natural Resources.

By request of Senator Thompson, with unanimous consent, the senate returned to the second order of business.

INTRODUCTION OF RESOLUTIONS

Senate Joint Resolution 5

To amend article VIII, section 3 and section 7(2)(a), of the constitution, relating to authorizing the contracting of public debt for veterans' housing (2nd consideration).

By Senators Thompson, Swan, Peloquin, Hollander, Goyke, Devitt, Bablitch, Morrison, Flynn, Harnisch, Cullen, Parys, Berger, Kleczka, Whittow, McKenna, Chilsen, Martin, Bidwell, Dorman and Murphy.

Read first time and referred to the committee on Governmental and Veterans' Affairs.

By request of Senator Bidwell, with unanimous consent, the senate adjourned in honor of Robert M. Thompson, who just recently became a grandfather.

JOURNAL OF THE SENATE [January 14, 1975]

Upon motion of Senator Whittow the senate adjourned until 10:00 A.M. Wednesday, January 15.

2:40 P.M.

CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

Senate Resolution 2

In engrossing, the following correction was made in 1975 **Senate Resolution 2**: On page 59, line 14, change the reference to read "Senate Rule 96".