

JOURNAL OF THE SENATE [February 4, 1975]

STATE OF WISCONSIN

Senate Journal

Eighty-Second Regular Session

TUESDAY, February 4, 1975.

10:00 A.M.

The senate met.

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

Prayer was offered by Reverend John Hendrickson, Pastor of Wisconsin Rescue Mission, Madison.

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 Whittow, with unanimous consent, Senator Frank was granted a leave of absence for the balance of the day.

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

Senators Bablitch, Berger, Bidwell, Chilsen, Cullen, Devitt, Dorman, Flynn, Goyke, Harnisch, Hollander, Keppler, Kleczka, Knowles, Knutson, Krueger, LaFave, Lorge, McKenna, Martin, Maurer, Morrison, Murphy, Parys, Peloquin, Petri, Risser, Sensenbrenner, Swan, Theno, Thompson and Whittow -- 32.

Absent -- None.

Absent with leave -- Senator Frank -- 1.

BILLS INTRODUCED

Read first time and referred:

Senate Bill 112

Relating to intergovernmental cooperation agreements.

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By Senator McKenna, cosponsored by Representative Thompson, by request of League of Wisconsin Municipalities.

To committee on Governmental and Veterans' Affairs.

Senate Bill 113

Relating to the application of the inheritance tax to a surviving spouse for property held in joint tenancy with deceased spouse.

By Senators Morrison, Berger, Parys, Thompson, Goyke, Krueger, McKenna, Cullen, Harnisch, Devitt, Martin, Bablitch, Petri, Flynn, Chilsen, Keppler, Swan, Whittow, Dorman, Kleczka, Peloquin and LaFave, cosponsored by Representatives Munts, Flintrop, Hanson, Dueholm, Sensenbrenner, Thompson, Giese, Ausman, Vanderperren, Luckhardt, Everson, Sicula, DeLong, Miller, Early, Ferrall, O'Malley, Lewis, Tropman, Otte, Mittness, Kedrowski, Lingren, Czerwinski, Elconin, Rutkowski, Murray, Metz, Offner, Duren, Groshek, Barczak, Quackenbush, L. Anderson, Gunderson, Donoghue and Goodrich.

To Joint Survey committee on Tax Exemptions.

Senate Bill 114

Relating to preservation of the buildings and grounds of the former Downer college at the University of Wisconsin-Milwaukee.

By Senator Berger.

To committee on Education.

Senate Bill 115

Relating to creating a drug quality review board in the department of health and social services, permitting prescriptions to be filled with approved drug product equivalents, prohibiting certain unfair drug pricing practices, making an appropriation, providing penalties and granting rule-making authority.

By Senators Berger and Goyke, cosponsored by Representatives Jackamonis and Wahner.

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

Senate Bill 116

Relating to hazardous substances, flammable fabrics and product safety requirements, granting rule-making authority and providing a penalty.

By Senator Berger.

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

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Senate Bill 117

Relating to establishment of a state airport design board, granting rule-making authority, making an appropriation and providing a penalty.

By Senator Berger.

To committee on Governmental and Veterans' Affairs.

Senate Bill 118

Relating to mirrors required on the front of school busses as a condition of registration and providing a penalty.

By Senator Berger, by request of students of Maple Tree School.

To committee on Commerce.

Senate Bill 119

Relating to right turning at intersections after stopping and yielding the right-of-way.

By Senators Berger, Hollander and Devitt.

To committee on Commerce.

Senate Bill 120

Relating to party nominations by write-in vote for general elections.

By Senator Berger.

To committee on Governmental and Veterans' Affairs.

Senate Bill 121

Relating to application for absentee ballots by sick or hospitalized persons.

By Senator Berger, cosponsored by Representative Jackamonis.

To committee on Governmental and Veterans' Affairs.

Senate Bill 122

Relating to membership of board of election commissioners in populous cities.

By Senator Berger.

To committee on Governmental and Veterans' Affairs.

Senate Bill 123

Relating to ballots and elections of unopposed judges.

By Senator Berger.

To committee on Judiciary and Consumer Affairs.

Senate Bill 124

Relating to procedures for voting when a name does not appear on registry lists.

By Senator Berger.

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To committee on Governmental and Veterans' Affairs.

Senate Bill 125

Relating to requiring sanitary districts to levy taxes based on equalized full value and making the ceiling on sanitary district taxes contingent upon equalized full value rather than assessed value.

By Senators Hollander and Bablitch, cosponsored by Representative Goodrich.

To committee on Governmental and Veterans' Affairs.

Senate Bill 126

Relating to the establishment of bilingual-bicultural educational programs in certain school districts, granting rule-making authority and making appropriations.

By Senators Dorman, McKenna, Bablitch, Thompson, Swan, Goyke, Devitt, Parys and Peloquin, cosponsored by Representatives Ferrall, Ward and Clarenbach.

To committee on Education.

Senate Bill 127

Relating to evaluation of nuclear power plants and declaring a 5-year moratorium on such plants.

By Senator McKenna.

To committee on Judiciary and Consumer Affairs.

Senator Parys asked unanimous consent that **Senate Bill 127** be withdrawn from the committee on Judiciary and Consumer Affairs and referred to the committee on Commerce.

Senator McKenna objected.

Senator Parys moved that **Senate Bill 127** be withdrawn from committee on Judiciary and Consumer Affairs and referred to committee on Commerce.

The ayes and noes were demanded and the vote was: ayes, 23; noes, 6; absent or not voting, 2; as follows:

Ayes -- Senators Bablitch, Berger, Bidwell, Chilsen, Devitt, Flynn, Goyke, Hollander, Keppler, Knowles, Knutson, Krueger, LaFave, Lorge, Martin, Morrison, Murphy, Parys, Peloquin, Petri, Swan, Theno and Whittow -- 23.

Noes -- Senators Cullen, Dorman, Harnisch, McKenna, Risser and Thompson -- 6.

Absent or not voting -- Senators Frank and Kleczka -- 2.

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So the motion prevailed.

COMMITTEE REPORTS

The committee on Natural Resources reports and recommends:

Senate Bill 3

Relating to free small game licenses for residents over 65 years of age.

Adoption of senate amendment 1; Ayes, 4; Noes, 0.

Adoption of senate amendment 2; Ayes, 4; Noes, 0.

Passage as amended; Ayes, 4; Noes, 0.

Senate Bill 33

Relating to authorizing the department of natural resources to waive annual state inspection of certain dams which are also inspected annually by the federal power commission.

Passage; Ayes, 4; Noes, 0.

JEROME A. MARTIN

Chairman

PETITIONS AND COMMUNICATIONS

Senate Petition 11

A petition by 46 residents of Waukesha County urging that the State of Wisconsin take over the selection and distribution of goose tags, and that a "rotation plan" be put into effect.

By Senator Murphy.

Read and referred to committee on Natural Resources.

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Senate Petition 12

A petition by 275 people requesting establishment of a veterinary medical college within the university system.

By Senator Devitt.

Read and referred to committee on Education.

State of Wisconsin
Claims Board

January 31, 1975.

Mr. Glenn Bultman:
Senate Chief Clerk
State Capitol
Madison, Wisconsin

Dear Mr. Bultman:

Enclosed is a copy of the report and recommendation of the State Claims Board covering claims heard on December 3, 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**

Hearing was held at the State Capitol Building in Madison, Wisconsin, on Tuesday, December 3, 1974, upon the following claim:

<i>Claimant</i>	<i>Amount of Claim</i>
Capital Indemnity Corporation -----	\$44,582.96

Capital Indemnity Corporation

Capital Indemnity Corporation, P.O. Box 8, Madison, Wisconsin, 53701 claims \$44,582.96 or in the alternative \$102,808.49 as balance due for bond premiums for the state's

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annual Motor Fuel Tax Bonds, under Chapter 78 of the Wisconsin Statutes for the year August 1, 1971 to July 31, 1972 and for August 1972. The claimant bid a premium of 46 cents per \$1,000.00 for these bonds. The bid was based on a total annual liability exposure which was estimated to be \$64,000,000.00. Exposure was defined to mean a total tax liability not to exceed \$100,000.00 per Motor Fuel Tax account and \$25,000.00 per Special Fuel Tax account. The maximum exposure amounts per account were based on the maximums indicated in Chapter 78 of the Wisconsin Statutes. The claimant contends the premium should be based on the total tax collections minus unbonded accounts and licenses bonded by others which was \$151,087,158.06 for the period August 1, 1971 to July 31, 1972 and \$15,271,473.07 for August 1972. The alternate claim is based on the contention that the state improperly failed to reveal certain existing claims against a former bonding company when the claimant was preparing its bid. Consequently it is alleged that if the full facts had been revealed the claimant's bid would have been 81 cents per \$1,000 instead of 46 cents per \$1,000. The board finds that the proper basis for determining the premium was the claimant's total liability exposure which was \$53,332,671.09 and that based on the bid amount of 46 cents per \$1,000 the proper total premium was \$24,533.01. The board further finds that the state has already paid an advance premium in the amount of \$31,942.00 and that the claimant is indebted to the state in the amount of \$7,408.99. The board further finds that the state did not improperly fail to reveal existing information to the claimant when the bid was being prepared. The board concludes the claim and the alternate claim are not ones for which the state is legally liable, nor ones which should be paid on equitable principles.

Dated at Madison, Wisconsin this 27th day of December, 1974.

WALTER G. HOLLANDER
Chairman, Senate Finance
Committee

RAYMOND J. TOBIASZ
Chairman, Assembly Finance
Committee

JOSEPH SENSENBRENNER
Representative of Governor

EDWARD D. MAIN

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**Representative of Secretary of
Administration**

**BEFORE THE
CLAIMS BOARD OF WISCONSIN**

Hearings were held at the State Capitol Building in Madison, Wisconsin, on Tuesday, December 3, 1974, upon the following claims:

<i>Claimant</i>	<i>Amount of Claim</i>
Dessie Knox and Charles Knox-----	\$102,900.00
Ray Wildenberg, Jr.,-----	58,100.75
Charles Creighbaum -----	116,400.00

THE BOARD FINDS:

Dessie and Charles Knox

1. Dessie Knox and Charles Knox, her husband, 803 Ellis Street, East Chicago, Illinois, make claim against the State of Wisconsin for personal injuries, medical expenses and loss of consortium as the result of injuries sustained on January 4, 1971, when Dessie Knox slipped and fell on the sidewalk as she was leaving the Carl Sandburg dormitory on the campus of the University of Wisconsin-Milwaukee.

Weather records indicate severe winter weather conditions existing from January 2-6, 1971, in the Milwaukee area. The records of the University of Wisconsin-Milwaukee indicate the following man hours were devoted to cleaning the walks in the campus area during this period:

January 2, 1975	30 hours
January 3, 1971	69 hours
January 4, 1971	129 hours
January 5, 1971	36 hours
January 6, 1971	40 hours

This would be a sufficient amount of time to maintain the walks in a reasonably clear condition. No other falls were reported during the period. The claimant, Dessie Knox, should have been well aware of the inclement weather conditions and exercised appropriate care under the circumstances. Claimant walked back to the dormitory after receiving heat treatments at the student clinic immediately after the accident. X-rays were negative as to any fracture. Claimant continued to receive heat treatments for

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four days until her husband came to take her home on January 8, 1971, at the completion of the one week seminar she was attending.

There is no evidence of any unreasonable accumulation of ice or snow in the area when the accident occurred. There is no showing of negligence on the part of employees, agents or officers of the State of Wisconsin, 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, with this exception: the board concludes that \$475 of whatever may be the total claim for medical expenses should be paid to the claimants on equitable principles.

Ray Wildenberg, Jr.

2. Ray Wildenberg, Jr., Route 3, Box 309, Appleton, Wisconsin 54911, claims \$58,100.75 for losses sustained as the result of the condemnation of his herd of cattle by the State of Wisconsin, computes as follows:

1. For 41 cows and 5 calves that died or were slaughtered prior to total herd condemnation: \$20,380.92
 2. For 36 cows and 20 calves slaughtered following total herd condemnation by the Department of Agriculture: \$14,894.32
 3. For loss of income through decrease in milk production for entire period (including loss of milk production for a 60-day period following total depopulation of the herd during which period no cattle may be brought on the premises as directed by the Department of Agriculture): \$22,306.00
- For trucking charge for shipment of cattle to slaughter or diagnostic laboratories: \$519.51
- Total Claim \$58,100.75

On November 17, 1973, a disease problem became apparent in claimant's herd when seven animals became sick from an unknown contagious infectious disease. The cattle showed symptoms of muscle weakness in the rear legs, loss of appetite, and coughing and grinding of their teeth. Claimant's veterinarian, Dr. N.J. Agen of Seymour, Wisconsin, called the State Department of Agriculture's Central Animal Health Laboratory for help in making a diagnosis. Many diagnostic tests were made in the course of five field trips by state diagnosticians to our farm as well as through the submission of animals and specimens directly to the laboratory.

All laboratory tests were negative. The Department of Agriculture, for purposes of further investigation and laboratory

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opinion, directed that a sick cow be sent to the University of Minnesota's College of Veterinary Medicine, St. Paul, Minnesota. After exhaustive studies, they, too, were unable to arrive at a final diagnosis or determine the nature of the disease.

Between November 17, 1973, and December 31, 1973, 19 cows died or were in such a condition that the killing of the animals became necessary. All 19 cows showed the same clinical symptoms as stated previously. Post mortem examinations disclosed minor lung pathology with small amount of hay in the lower lobes, inflammation of the spleen and muscle degeneration of the rear legs but were otherwise inconclusive. Tests for toxic agents in the feed were negative. Even when placed on other feed, the remaining cattle in the herd continued to show symptoms of a serious disease.

A diagnostician from the National Animal Disease Laboratory at Ames, Iowa, operated by the United States Department of Agriculture, was consulted, and inspection of the herd was made by him on two separate occasions. All diagnostic tests, examinations and post mortem findings of the National Laboratory failed to provide a final diagnosis or definitive answer to the problem in claimant's herd.

Specimens and blood samples were further submitted by the Central Animal Health Laboratory to the United States Department of Agriculture's Foreign Animal Disease Center at Plum Island, New York. The Plum Island Center was unable to arrive at any conclusions as to a specific diagnosis.

By January 21, 1974, an additional 22 cows were slaughtered and 5 calves died without a final diagnosis having been made.

On February 21, 1974, the Wisconsin State Board of Agriculture authorized the Department of Agriculture to proceed with condemnation of the entire herd, in view of the fact that the disease was spreading rapidly in the herd and the danger existed that the disease may spread to other herds in the area or throughout the state. The board further recommended that steps be taken to advise the legislature of such condemnation action with the recommendation that indemnification be provided for losses.

The Board of Agriculture recommended payment in the amount of \$15,109.14 should be made to the claimant.

The Claims Board concludes that a payment in the amount of \$15,109.14, which is the proper measure of the loss incurred by the claimant for the 56 cattle condemned by the Department of Agriculture, plus \$2,697.02, which is the proper measure of lost net milk income during the 60-day period during which claimant was prohibited from bringing cattle onto his premises, is equitable

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under the circumstances. The recommended figure of \$17,806.16 consists of the following:

1. 36 cows and 20 calves slaughtered following total herd condemnation, as claimed:	\$14,894.32
2. Trucking charge for shipment of above cattle to slaughter:	\$214.82.
3. Loss of milk production income only for 60-day period during which claimant was prohibited from bringing cattle on his premises, and subtracting reasonable feed expense during said period:	\$2,697.02
Total Payment Recommended	\$17,806.16

Charles Creighbaum

3. Charles Creighbaum, c/o Lakeview Estates, Brothertown, Wisconsin, claims \$116,400 for damages sustained from the loss of eight fingers while operating an eight-foot press brake machine in the metal furniture industries building of the Wisconsin State Prison at Waupun, on June 23, 1970. At the time of the accident, Mr. Creighbaum was in the process of positioning a piece of metal between the dyes of the press brake when, without warning, and without any voluntary action on the part of Mr. Creighbaum, the dyes closed on his fingers, causing traumatic amputation. He was treated at University Hospital-Madison, and the Department of Health and Social Services paid the medical and hospital bills in connection with that hospitalization. Mr. Creighbaum also received \$5,000 pursuant to sec. 56.21, Wis. Stats.

Mr. Creighbaum retained the services of the firms of Shellow & Shellow and Walther & Halling of Milwaukee, Wisconsin, to pursue his common law remedies against the State of Wisconsin. Since Wisconsin law does not permit direct suit against the State of Wisconsin under these circumstances, legal action was commenced in Circuit Court for Dodge County against Mr. L. C. Wallace, who at the time of Mr. Creighbaum's accident was a civilian foreman directly in charge of Mr. Creighbaum, and an employee of the prison.

The case was tried to a verdict before Judge Henry Gergen in Dodge County of September 20, 1973. The jury returned a verdict finding a total of \$116,000 damages, but finding no causal negligence on either Mr. Creighbaum or Mr. Wallace. On motions after verdict Mr. Creighbaum's attorneys moved the court for a new trial, and in a memorandum decision on motions after verdict, Judge Gergen denied the motion for a new trial. The nature of the

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evidence given at the trial is summarized in Judge Gergen's memorandum decision, but the board specifically points out Judge Gergen's comments found at page 3 of the decision as follows:

"It is apparent that had the principals, the employer and the management and the foreman all been sued, a jury could have found someone negligent, particularly the state for operating such a department under the safe plan (sic) law. The plaintiff sued only the foreman."

The testimony at the trial and before this board was to the effect that the only preventive maintenance program which the prison had in effect on June 23, 1970, was that when a machine showed evidence of malfunction, it was to be reported. There was no preventive maintenance to guard against malfunction of a machine before it happened. Additionally, there were safe place violations in connection with the operation of the metal furniture industries building.

The evidence established that the press brake machine was in need of repair.

Although the State of Wisconsin cannot legally be sued, this board concludes the State has a moral obligation to pay \$20,000 to Mr. Creighbaum for his personal injuries.

The following summary is taken from the decision of the Hon. Henry G. Gergen, Jr., Circuit Judge, 13th Judicial Circuit, dated October 29, 1973:

"The action finds a Wisconsin State Prison inmate who was a brake press operator of the prison industries suing his immediate shop foreman on a claim of negligence. The relationship of plaintiff and defendant and the occupational duties of each, the safety rules, the standing operating procedures, the relationships among management, maintenance and repair personnel were all the subject of evidence. There is no claim that there was error in the instructions. The plaintiff was working on the machine everyday and complained several times to the foreman as to the machine 'sliding'. The shop rule was that such malfunctions be called to the attention of the foreman. Standing operating procedure was that the malfunction be demonstrated to the foreman and he would request repairs and maintenance service through his superior and from the prison industry management in due course. On each occasion of complaint the operator was unable to demonstrate the malfunction to the foreman, the condition of the machine being such that the malfunction occurred irregularly.

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On the day of the accident the machine malfunctioned in a different way in that it 'recycled', that is, it repeated a full operational function without direction or control by the operator. At the same time the plaintiff, in violation of the primary safety rule to always keep his hands beyond reach of the moving machine parts, had his hands within the zone of hazard arranging the metal stock he was forming. His fingers were cut off by the malfunction of 'recycling'. The operator had never seen the machine do that before. Some three weeks later when the machine was torn down for repairs it appeared that, internally, it was grossly in need of repair. The prison had no arrangement for preventive maintenance at all and the foreman was not charged to call for repairs unless it was made apparent to him that the machine required repair. The operator sued the foreman for his negligence and argues now that, as a matter of law, justice miscarried because the jury did not find the foreman negligent.

"It is apparent that had the principals, the employers and the management and the foreman all been sued, a jury could have found someone negligent, particularly the state for operating such a department under the safe plan law. The plaintiff sued only the foreman. His function, duties, and exercise of care was all before the jury jointly with evidence of his position in management, the safety rules, management's directions to him and to others in the chain of authority, and the standing operating procedures. In a fair overview of all of the evidence the court cannot say that as a matter of law a jury must find the foreman negligent. On the contrary a true fact issue was presented for determination and the jury answer shall stand as fully supported by the evidentiary condition in the record.

"Plaintiff goes further and argues miscarriage of justice. If justice miscarried, however, its source of effect is found in the workmen's compensation laws and the effect of the \$5,000 limitation of the state's liability to a prison industry worker."

THE BOARD CONCLUDES:

The claim of Dessie Knox and Charles Knox in the reduced amount of \$475 is justified under sec. 16.007 (6), Wis. Stats.

THE BOARD RECOMMENDS:

That payment of \$17,806.16 be made to Ray Wildenberg, Jr. for the loss of 36 cows and 20 calves slaughtered following total

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herd condemnation by the Department of Agriculture, and for other related expenses.

That payment of \$20,000 be made to Charles Creighbaum for his personal injuries sustained from the loss of eight fingers while operating an eight-foot press brake machine in the metal furniture industries building of the state prison.

Dated at Madison, Wisconsin this 27th day of December, 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

MESSAGE FROM THE ASSEMBLY

By Everett E. Bolle, chief clerk.

Mr. President:

I am directed to inform you that the assembly has adopted and asks concurrence in:

Assembly Joint Resolution 1

Motions Under Joint Rule 26:

A Joint Certificate of Condolence by Representative Norquist and all Milwaukee Representatives; cosponsored by Senator Kleczka and all Milwaukee Senators for **MRS. PROVIE JENDUSA AND FAMILY** on the passing of Robert J. Jendusa, Sr.;

A Joint Certificate of Commendation by Representative O'Malley; cosponsored by Senator Thompson for **PEARL KUSCHE** on her retirement;

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A Joint Certificate of Commendation by Representative Swoboda; cosponsored by Senator Martin for MR. RICHARD SEIDL on his 50th anniversary at the Bank of Luxemburg;

and

A Joint Certificate of Congratulations by Representative McEssy; cosponsored by Senator Hollander for THE FOND DU LAC HIGH SCHOOL FOOTBALL TEAM AND COACH JIM JOHNSON on being ranked as the number one high school football team in Wisconsin.

MESSAGE FROM THE ASSEMBLY CONSIDERED

Assembly Joint Resolution 1

Relating to authorizing the contracting of public debt for veterans' housing (2nd consideration).

By Representatives Early, Roberts, Rogers, Schricker, O'Malley, Mohn, Hanson, Willkom, Gerlach, Plewa and Johnson.

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

Motions Under Joint Rule 26:

A Joint Certificate of Condolence by Representative Norquist and all Milwaukee Representatives; cosponsored by Senator Kleczka and all Milwaukee Senators for MRS. PROVIE JENDUSA AND FAMILY on the passing of Robert J. Jendusa, Sr.;

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The above motions under Joint Rule 26 were read and concurred in enmasse.

RULING OF THE CHAIR

On Wednesday, January 22, 1975, during the 10th order of business the Senator from the 33rd made a motion that **Senate Resolution 3** be taken from the table.

The chair ruled that motion our of order ruling that said motion should be appropriately made under the eighth order of business.

Just prior to adjournment on said day the Senator from the 10th rose to a point of order as the the chair's ruling citing Senate Rule 65.

(1) A motion to lay on the table shall only have the effect of disposing of the matter temporarily and it may be taken from the table at any time by order of the Senate.

The question is simply, can a bill or resolution be taken from the table at any time?

Senate Rule 65 when read in its entirety furnished the guidance needed for the decision on this appeal.

(2) A motion to lay a bill or resolution on the table shall, if approved, have the effect of returning the matter to the committee on senate organization.

(3) A motion to remove a bill or resolution from the table shall, if approved, have the effect of withdrawing the matter from the committee on senate organization and placing it on the calendar.

Under the Senate Rule 65(2) a motion to table a bill or resolution is not really a motion to table in the traditional sense but actually is a motion with the effect of "returning the matter to the committee on senate organization." [See also Senate Rule 63 (1) (f)].

Under Senate Rule 65(3) a motion to remove a bill or resolution from the table is not really a motion to remove from the table in the traditional sense, but actually a motion with the effect of "withdrawing the matter from the committee on senate organization and placing it on the calendar."

The "and it may be taken from the table at any time" language of Senate Rule 65(1), because of the explicit language in (2) and (3) becomes inoperative when a tabling motion involves "placing"

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or "taking" a bill or resolution from the table.

A motion to take a bill or resolution from committee or remove a bill or resolution from the table cannot be made at any time but must be made under the appropriate order of business pursuant to the rules.

The point of order is not well taken.

Respectfully submitted,
MARTIN J. SCHREIBER
Lieutenant Governor

MOTIONS

By request of Senator Dorman, with unanimous consent, **Senate Joint Resolution 7** was withdrawn from the joint committee on Finance and referred to the Joint Survey Committee on Tax Exemptions.

By request of Senator Dorman, with unanimous consent, **Senate Bill 32** was withdrawn from the joint committee on Finance and referred to committee on Natural Resources.

By request of Senator Dorman, with unanimous consent, **Senate Bill 36** was withdrawn from the joint committee on Finance and referred to the Joint Survey Committee on Tax Exemptions.

Senator Theno asked unanimous consent that **Senate Joint Resolution 7** be withdrawn from the Joint Survey Committee on Tax Exemptions and referred to the committee on Governmental and Veterans' Affairs.

Senator Whittow objected.

CALENDAR OF FEBRUARY 4

Senate Joint Resolution 13

Granting the YMCA Youth in Government Committee the use of the legislative chambers on May 2 and 3, 1975.

Read and adopted.

Assembly Joint Resolution 14

Creating the session schedule for the 1975-1977 biennial session period, as required by section 13.02 (3) of the statutes.

Read.

The question was: Adoption of senate amendment 1?

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Senate amendment 1 adopted.

Assembly Joint Resolution 14

Concurred in as amended.

Ordered immediately messaged.

President pro tempore of the senate in the chair.

10:45 A.M.

By request of Senator Theno, with unanimous consent, **Senate Joint Resolution 7** was withdrawn from the Joint Survey Committee on Tax Exemptions and referred to committee on Governmental and Veterans' Affairs.

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

COMMITTEE REPORTS

The committee on Agriculture, Human Services, Labor and Taxation reports and recommends:

Senate Joint Resolution 14

Memorializing congress to increase the support level of manufactured milk to 90% of parity.

Adoption; Ayes, 9; Noes, 0.

CARL W. THOMPSON

Chairman

Senator Chilsen asked unanimous consent that **Senate Joint Resolution 14** be withdrawn from the committee on Senate Organization and considered for action at this time.

Senator Bablitch objected.

Senator Chilsen moved that the rules be suspended and **enate Joint Resolution 14** be withdrawn from committee on Senate Organization and considered for action at this time.

Senator Whittow asked unanimous consent that the motion to withdraw **Senate Joint Resolution 14** from committee be laid on the table.

Senator Chilsen objected.

Senator Whittow moved that the motion to withdraw **Senate Joint Resolution 14** from committee be laid on the table.

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Senator Knowles raised the point of order that a motion to suspend rules takes precedence over a motion to table and therefore a move to table would be out of order.

The chair took the point of order under advisement.

Upon motion of Senator Whittow the senate adjourned until 10:00 A.M. Wednesday, February 5.

11:05 A.M.

INTRODUCTION OF GUESTS

Senator Murphy introduced his former administrative assistant, Mike McDonald of Menomonee Falls.

Senator Swan introduced members of Project Leap of Commando Project I of Milwaukee.

Senator Risser introduced first grade students of Leopold School, Madison.