

JOURNAL OF THE SENATE

WEDNESDAY, May 5, 1976.

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

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Bill 17

Senate Bill 113

Senate Bill 755

Correctly enrolled and presented to the Governor on April 28, 1976.

The chief clerk records:

Senate Bill 67

Senate Bill 97

Senate Bill 99

Senate Bill 137

Senate Bill 146

Senate Bill 155

Senate Bill 196

Senate Bill 208

Senate Bill 238

Senate bill 242

Senate Bill 258

Senate Bill 278

Senate Bill 291

Senate Bill 304

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Senate Bill 372

Senate Bill 470

Correctly enrolled and presented to the Governor on May 3, 1976.

PETITIONS AND COMMUNICATIONS

Wisconsin Legislature
Senate Chamber
Madison

March 24, 1976

The Honorable Patrick J. Lucey, and
Members of the Senate
State Capitol
Madison, Wisconsin

Dear Governor and Senators:

Inasmuch as I have indicated in a public statement that I will not be seeking election for another Senate term, I have decided it would be in the best interest of the Senate to resign my position on the Building Commission.

The important work of the Building Commission in the next few months is to prepare the state building program and plans for the next biennium. I think that my successor on the commission should have time to acquaint himself with building commission procedures and responsibilities so that he can have time to participate in the planning and development of that program.

I have appreciated the experience of serving on the Building Commission as a senate representative. It has been interesting and stimulating and I certainly have enjoyed the association with the other members of the commission.

Sincerely,
MILO G. KNUTSON
Senator

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**Wisconsin Legislature
Senate Chamber
Madison**

April 27, 1976

**Honorable Martin J. Schreiber
Lieutenant Governor
State Capitol
Madison, Wisconsin**

Dear Lieutenant Governor Schreiber:

I hereby submit to you my resignation as a member of the Wisconsin State Senate, pursuant to 17.01 (3) (13) (a) of the Wisconsin Statutes.

This resignation is to be effective at 12:00 P.M. on April 30, 1976.

**Sincerely yours,
WAYNE F. WHITTOW
Majority Leader**

**State of Wisconsin
Claims Board**

April 28, 1976

**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 April 9, 1976.

There were no amounts of money recommended for payment at this hearing.

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.

**Sincerely,
EDWARD MAIN
Secretary**

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BEFORE THE
CLAIMS BOARD OF WISCONSIN

The Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin, on April 9, 1976, upon the following claims:

<i>Claimant</i>	<i>Amount</i>
1. Tanniru R. Rao-----	\$ 45.22
2. Robert D. Petersen -----	2514.60
3. Jerry L. Hancock -----	1551.00
4. James Cape & Sons Co. -----	20,415.07

THE BOARD FINDS:

1. *Tanniru R. Rao*

Tanniru R. Rao, 9133 North Brown Deer Court, Brown Deer, Wisconsin 53223, claims \$45.22 as reimbursement from his employer, the University of Wisconsin System, for expenses relating to an authorized trip to Portland, Oregon, taken in August, 1974. Section 20.916 (1), Wis. Stats., provides that state employees shall be reimbursed for "actual, reasonable and necessary" traveling expenses. A round trip fare between Milwaukee and Portland regularly is \$279.27. However, when purchased by claimant in conjunction with a special tour package, the actual cost of such a round trip to him was \$299.05 less \$65.00 stop-over costs in San Francisco, or a net amount of \$234.05. Although the reasonable and necessary traveling expenses for such a trip regularly would be \$279.27, reimbursement of that amount would disregard the presence of the word "actual" in the statute. Under the facts of this case, the actual traveling expense for this trip was only \$234.05 because the claimant chose to select a special tour package which reduced the actual cost of the air fare. The claim is not one for which the State is legally liable, nor one which should be assumed and paid on equitable principles.

2. *Robert D. Petersen*

Robert D. Petersen, Box 506, Kappers Road, Oostburg, Wisconsin 53070, claims \$2514.60 for the loss of his sculpture in August, 1975, at the east end of Engelmann Hall basement on the University of Wisconsin -- Milwaukee campus. Claimant is an employe of the University of Wisconsin -- Milwaukee Architecture Department who was working on the sculpture and storing it 200 feet from his place of employment as part of his master's thesis in the School of Fine Arts. The sculpture allegedly was thrown out by

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the night crew janitors. At the hearing before the Board, the payment of the claim was opposed by the University of Wisconsin on the grounds that the sculpture was not being stored in the building where the School of Fine Arts is located. It was also alleged the claimant had indicated to the maintenance men that they could throw the sculpture out. The claimant had obtained the permission of the Dean of the School of Architecture to store the sculpture temporarily in Engelmann Hall, and claimant had placed a note on the sculpture indicating it should not be removed. The Board finds there is not sufficient evidence to support payment of the claim on legal or equitable principles.

3. *Jerry L. Hancock*

Jerry L. Hancock, 2124 Kendall Avenue, Madison, Wisconsin 53705, claims \$1551.00 for reimbursement of tuition in the 1971-72 academic year from the University of Wisconsin on the grounds that he should have been eligible for resident status. In a decision by the Wisconsin Supreme Court dated December 21, 1973, at 61 Wis. 2d 484, the court reversed a decision of the Dane County Circuit Court (which would have granted claimant resident status for the 1971-72 academic year) on judicial grounds. Claimant had made application for resident status for only the 1970-71 academic year, which resident status was denied to him, but never made similar application for the 1971-72 academic year in question. By failing to pursue the remedy available to him, the University of Wisconsin was never given the opportunity to consider claimant's resident status on a timely basis for the 1971-72 academic year. See 61 Wis. 2d at 491. A majority of this Board is of the opinion that since the State did provide the means to have claimant's status properly determined by the University of Wisconsin, which means were not timely pursued, that the claim is not one for which the State is legally liable, nor one which should be allowed on equitable principles. (Members Kleczka and Reimer dissent).

4. *James Cape & Sons Company*

James Cape & Sons Company, 6422 North Highway 31, Racine, Wisconsin 53401, Claims \$20,415.07 for damages to a road construction project resulting from an unusually heavy rainstorm on July 14-15, 1972, near Menominee Falls, Wisconsin. A majority of the Board concludes the State is liable for some damages, the amount of which the Board does not decide at this time, within the meaning of sec. 107.14 of the standard specifications. (Members Molinaro and Reimer dissent).

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The contract relieves the contractor from liability for damages to work due to unforeseeable causes beyond his control and without any fault or negligence on his part, including acts of God.

The Department of Transportation refers to Klauber v. American Express Company (1866), 21 Wis. 21. While holding that ordinary rain was not an act of God, the Court was careful to point out: "...In speaking of rains and winds, we mean of course those ordinary and frequent occurrences in this country not amounting to tempests. Tempests are regarded as the acts of God; ..." Also, in Ray-O-Vac v. Chicago & N. W. Ry. Co. (W.D. Wis. 1954), 121 F. Supp. 409, the U. S. District Court for the Western District of Wisconsin held that a loss due to a flood was the result of an act of God for which the railroad was not liable, unless the railroad's own negligence contributed to the loss, and the burden of proving such negligence was on the plaintiff shipper.

Claimant's expert witness, Dr. Walter A. Lyons, Associate Professor of Meteorology, described the rainstorm which caused the damage as most unusual. Within a 1-2 hour period there was such an intensity of rainfall on the job sight that it was equal to 750 tons of water, or all of July's average rain coming down in one area at one time. If it had been snow, it would have caused an accumulation of 25 inches in 2 hours. The chances of that much rain falling in that spot in that period of time were 1 or 2 in 100,000. The unofficial (but reliable) data at Menomonee Falls recorded 3.6 inches of rainfall for the period. Such heavy rainfall followed by the subsequent run-off caused substantial damages to the job site. It was close to a flash flood type of storm, the full extent of which was not readily foreseeable by claimant. It was a furious storm, the magnitude of which could not have been foreseen.

THE BOARD CONCLUDES:

The claims of the following named claimants should be denied:

1. Tanniru R. Rao
2. Robert D. Petersen
3. Jerry L. Hancock

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The State is liable for a portion of the claim filed by James Cape & Sons Company, the amount of which is not determined at this time.

Dated at Madison, Wisconsin this 22nd day of April, 1976.

GERALD D. KLECZKA
Senate Finance Committee

GEORGE MOLINARO
Assembly Finance Committee

DAVID RIEMER
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

ALLAN P. HUBBARD
Representative of Attorney
General

State of Wisconsin
Department of State

April 27, 1976.

To the Honorable, the Senate

Senators:

I have the honor to transmit to you pursuant to s. 13.67 (2), the names of the registered lobbyists for the period beginning on April 12, 1976, and ending on April 26, 1976.

Yours very truly,
DOUGLAS LAFOLLETTE
Secretary of State

Name, Address and Occupation of Lobbyist -- Name and Address of Employer -- Subject of Legislation Code Number -- Date of Employment.

Hanson, Darryl D., 152 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203 -- Wisconsin Democratic Party, Milwaukee County, 229 East Wisconsin Ave., Milwaukee, Wisconsin 53201 -- All coded subjects -- April 26, 1976.

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Please note the following cancellations:

Henry S. Gerth, Brotherhood of Railroad Signalmen, as of April 19, 1976.

William W. Gohdes, The Upjohn Company, as of February 27, 1976.

William J. Guerin, Wisconsin Professional Policemen's Association, April 17, 1976.

Glenn L. Henry, County of Dane, April 1, 1976.

Robert M. Hesslink, Jr., County of Dane, April 1, 1976.

Harold K. Hill, Wisconsin Register of Deeds Association, April 15, 1976.

D.W. Hurd, Wyeth Laboratories, March 1, 1976.

Ralph Jirikowic, Milwaukee County Labor Council, AFL-CIO, April 19, 1976.

Gene Kieffer, Wisconsin Citizens Concerned for Life, April 20, 1976.

Timothy McGee, Automotive Service Councils of Wisconsin, Inc., April 20, 1976.

Frank H. Patterson, Local #55, #538 AFSCME-AFL-CIO, April 11, 1976.

Ronald Rosen, Peoples' Lottery Committee, Incorporated, as of April 20, 1976.

Donald Schaefer, Donald W. Schaefer, March 1, 1976.

Elmer W. Schmidt, Wisconsin Tavern Keepers Association, Inc., April 19, 1976.

Donald L. Bach, Chemical Specialties Manufacturers, Diamond International Corporation, as of April 30, 1976.

Donald Cuene, Wisconsin Professional Policemen's Association, as of April 26, 1976.

Michael J. DeLonay, United Council of University of Wisconsin Student Governments, as of April 1, 1976.

James G. Derouin, Chemical Specialties Manufacturers Association, Inc., Diamond International Corporation, Wisconsin Professional Drivers Association, as of April 30, 1976.

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John H. Ellingson, Wisconsin Association of Food Dealers, as of March 31, 1976.

James T. Guckenberger, Northwest United Educators, as of April 27, 1976.

H.E. Halverson, Wisconsin Manufactured Housing Association, as of April 22, 1976.

Ronald W. Kuehn, Chemical Specialties Manufacturers Association, Inc., as of April 30, 1976.

John M. Lavine, Lavine Media Incorporated, as of April 1, 1976.

Robert E. McCarthy, Wisconsin Association of Independent Colleges and Universities, as of April 1, 1976.

Kenneth T. McCormick, Jr., American Reciprocal Insurance Association, as of April 26, 1976.

Thomas P. Moore, Chemical Specialties Manufacturers Association, Inc., as of April 30, 1976.

William J. O'Rourke, Wisconsin Veterinary Medical Association, as of April 26, 1976.

Michael S. Varda, Wisconsin Professional Drivers Assn., as of April 30, 1976.

Robert E. West, Northwest United Educators, as of April 27, 1976.

John D. Winner, The Soap and Detergent Association, Wisconsin State Chamber of Commerce, Wisconsin Broadcasters Association, as of March 30, 1976.

Legislative Subject Identification

Code	Subject
01	<i>Agriculture, horticulture, farming & livestock</i>
02	<i>Amusements, games, athletics and sports</i>
03	<i>Banking, finance, credit and investments</i>
04	<i>Children, minors, youth & senior citizens</i>
05	<i>Church & Religion</i>
06	<i>Consumer Affairs</i>
07	<i>Ecology, environment, pollution, conservation, zoning, land & water use</i>

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- 08 *Education*
- 09 *Elections, campaigns, voting & political parties*
- 10 *Equal rights, civil rights & minority affairs*
- 11 *Government, financing, taxation, revenue, budget, appropriations, bids, fees & funds*
- 12 *Government, county*
- 13 *Government, federal*
- 14 *Government, municipal*
- 15 *Government, special districts*
- 16 *Government, state*
- 17 *Health services, medicine, drugs and controlled substances, health insurance & hospitals*
- 18 *Higher education*
- 19 *Housing, construction & codes*
- 20 *Insurance (excluding health insurance)*
- 21 *Labor, salaries and wages, collective bargaining*
- 22 *Law enforcement, courts, judges, crimes & prisons*
- 23 *Licenses & permits*
- 24 *Liquor*
- 25 *Manufacturing, distribution & services*
- 26 *Natural resources, forests and forest products, fisheries, mining & mineral products*
- 27 *Public lands, parks & recreation*
- 28 *Social insurance, unemployment insurance, public assistance & workmen's compensation*
- 29 *Transportation, highways, streets & roads*
- 30 *Utilities, communications, television, radio, newspapers, power, CATV, & gas*
- 31 *Other*

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

April 29, 1976.

To the Honorable, the Senate:

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

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Senate Bill	Chapter No.	Date Approved
113 -----	222 -----	April 29, 1976
17 -----	223 -----	April 29, 1976
755 (partial veto) -----	224 -----	April 29, 1976

Sincerely,
PATRICK J. LUCEY
Governor

State of Wisconsin
Office of the Governor
Madison, Wisconsin

April 29, 1976.

To the Honorable, the Senate

I have approved Senate Bill 755 as Chapter 224, Laws of 1975, and deposited it in the office of the Secretary of State.

I have exercised the partial veto in several instances to limit the cost of the bill and to improve the administration of the programs it affects. The reasons for the partial vetoes are set out below.

Renaming of the Natural Beauty Council and Redefining its Role

Section 112p of the budget bill changes the name of the Natural Beauty Council and redefines its role.

I have vetoed certain items in this section, primarily of a technical and administrative nature, while retaining the name change to the Wisconsin Citizens Environmental Council, in order to maintain the functions as originally delineated.

Because the State Planning Office is examining the functions of the council and will present organizational and other recommendations this fall, any change in duties would be premature at this time.

Inflationary Increases in the Department of Natural Resources

Section 150 (26)(v) provides for the appropriation of certain segregated funds to cover inflationary increases faced by the Department of Natural Resources.

Because the Department has been able to satisfactorily absorb inflationary costs for the 1975-76 fiscal year, I have vetoed the increased appropriations for that period.

I fully recognize that we cannot ignore the continuing inflationary pressures on the services provided by the Department

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of Natural Resources. For this reason, I have approved the inflationary increases for the 1976-77 period.

Publication Fees - Conservation Bulletin

Section 17m seeks to divert moneys received from fees collected from the sale of subscriptions to publications issued by the Department of Natural Resources in order to offset costs associated with the Conservation Bulletin or other publications which the Department may issue. I am vetoing this unnecessary change for two reasons:

First, moneys are currently budgeted to produced the Conservation Bulletin.

Second, revenues generated by Department of Natural Resources publication subscription sales should go into the Conservation Fund (to partially offset the cost) rather than an insufficient subsidy of a publication which may not be able to sustain its own production/distribution costs on its own merit.

In a time of fiscal restraint we should not be funding publications of this nature which cannot be maintained on an economically sound basis without diminishing the revenues of other solvent DNR publications and the programs they support.

VTAE Course and Material Fees

Section 42b gives the state VTAE Board the authority to determine uniform guidelines for fees for consumable items in the various courses offered by the districts. It simply makes no sense to create a situation in which the VTAE systems could establish sixteen different material fees for the same course.

Past experience of each district setting its own material and course fees has clearly demonstrated the problems created by different fee levels for identical course offerings. Such a system is unfair to those who participate in the VTAE program. Therefore, I am vetoing language from sec. 42b, 38.24(1)(c) in order to prevent the return to the diverse fee structure of the past and to assure that uniform fees will be charged for similar courses across the VTAE system.

Study of U.W. Academic Personnel

Section 145a(3) directs the State Bureau of Personnel to conduct and complete by January 10, 1977, a review of academic staff appointments in the University of Wisconsin System to determine: (1) if any of the academic appointments should more appropriately be appointed in the classified services; and (2) if the

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procedures for classifying positions are consistent with the classified civil service system.

The primary areas of concern here are to insure that the classified civil service selection process and pay policies are not being circumvented through an inappropriate use of unclassified academic staff appointments. As such, it is apparent that the State Bureau of Personnel must develop criteria to determine if any of the academic staff appointments would be more appropriately made in the classified civil service and evaluate each position against the established criteria.

It would be impossible, however, for the Bureau of Personnel to complete a study of this magnitude prior to January 19, 1977. Therefore, I am vetoing that reporting date.

Foreign Student Transfer Program

Sections 10c, 42i, 150(23), and 150(36)(e), would establish a transfer route, normally after two years of foreign medical school, for students to return to Wisconsin medical schools. The bill also earmarks \$75,000 GPR to support the transfer of a small segment of medical students from foreign medical schools to Wisconsin medical schools.

This unsound program, which would encourage Wisconsin residents who cannot gain admission to Wisconsin medical schools to go to foreign schools for training, might prove to be a cruel hoax for those students who went abroad and subsequently found that they could not meet the standards of Wisconsin medical schools for transfer and therefore could not participate in the program. Further, it provides preferential treatment and state subsidies for those individuals who can afford to go abroad for training and then gain admission to Wisconsin medical schools.

Finally, this legislation seeks to establish and fund a new program which is in direct conflict with the firmly established policy of funding only those new programs of the highest priority during this period of necessary fiscal restraint.

Sabbatical Leave Program

Section 41t will establish a sabbatical leave program for instructional faculty. I am pleased that we are able to establish a modest sabbatical program funded from existing appropriations.

The prime reasons for a sabbatical program should be to aid in faculty development -- to enhance teaching efforts and excellence -- through increasing teaching effectiveness.

Therefore, the partial veto of Section 41, 36.11(17)(c) will make the sabbatical program more consistent with its basic

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purpose. By concentrating resources and efforts on developing faculty instructional talents, the University of Wisconsin System will be in a position to improve its flexibility and to broaden the capabilities of existing faculty members. Such emphasis would provide a direct benefit to the students which effort placed on "research and other scholarly pursuits" might not afford.

Encephalitis Surveillance

Section 150(36)(d) of the budget bill provides \$76,500 GPR funding for four new positions at the University of Wisconsin medical school to conduct encephalitis surveillance.

Up to the present time, encephalitis surveillance activities have been carried out by personnel of the State Laboratory of Hygiene. These essential surveillance functions could be continued as they have in the past without the addition of new positions and expanded efforts. At a time when program expansion is severely limited to critically needed positions and programs, such an additional expenditure is both unwise and unnecessary. Therefore, I have vetoed Section 150(36)(d).

Tuition for Children Residing on Department of Natural Resources Lands

Section 109a attempted to rectify an apparent financial disparity caused by children whose parents reside on lands owned by the Department of Natural Resources and therefore pay no property tax. This portion of the budget bill is based on the assumption that school districts suffer an added financial burden in such instances.

This is not always the case. The number of students whose parents are employed at and residing on lands owned by the Department of Natural Resources is a tiny fraction of the state's elementary and secondary students. A particular school district would have only a few such students. In those cases, the district actually receives increased general school aid for these students since the students are counted for membership purposes but the property on which they reside does not add to the district's total equalized valuation.

Because of the potential of inconsistent or inequitable policies in this area, I will ask the Department of Public Instruction to study all special tuition payments and to make a recommendation as part of the 1977-79 budget process.

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Wisconsin Special Olympics

Section 10s provides an appropriation to the Wisconsin Special Olympics, Inc., a private organization operating a sports and recreational program for the functionally disabled. This is a sound and expanding program that does not require a public subsidy. Therefore, I have vetoed the section which provides state financial assistance for this worthy enterprise.

The Wisconsin Special Olympics is one of a substantial number of private charitable organizations, all of which provide meritorious services and opportunities to citizens facing special disabilities. Any one of these organizations is deserving of our private financial support but does not warrant a subsidy from the public tax dollar.

Fuel and Utility Exemption Under Cost Control

Sections 109q and 151(27)(d) of the budget bill would permit a school district to exceed its allowable shared cost budget by documenting inflationary increases in heating and electricity costs if those costs exceed 9.5% of the prior years expenditures. I have vetoed the exemption of fuel and utility exemption under cost controls.

The well established and prudent policy of cost controls is based on the premise that a 9.5% cost control may be exceeded by inflationary increases in some isolated instances, but that on the average 9.5% is a reasonable budgetary limitation. Statistics supplied by the Department of Public Instruction show that as of January 1st, a healthy majority of districts had already adjusted their budgets in order to be in compliance with the 9.5% control. This would suggest that, on the average, 9.5% is a workable control level.

Furthermore, there is no rationale for arbitrarily selecting two fixed cost items -- heat and electricity -- from other fixed costs which are also subject to inflationary increases. Finally, this provision, if allowed to stand, would unduly complicate the administration of cost controls and general school aid.

Frozen Funds for Additional Urban Correctional Facilities

Section 145h(9), strictly interpreted, would prevent the Joint Finance Committee from releasing needed funds for additional correctional facilities until higher correctional population levels were actually realized. Such a restriction would place severe handicaps on those who administer our correctional facilities and might cause a deterioration of conditions in individual facilities. In

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order to allow sufficient lead time to plan and implement additional facilities, I have partially vetoed Sec. 145h(9).

Furthermore, strict interpretation of this section, as proposed, would also limit use of funds to the opening of additional urban centers. In fact, a portion of these funds is intended to expand capacity and programs at the Oregon Correctional Facility which, under strict interpretation, would not be considered an "urban center".

Long Term Mentally Ill Funding

Section 145h(15) of the bill provides up to \$2.4 million of additional funding for the long-term mentally ill. I have made some changes in the formula which will make it apply to mental health programs of all counties regardless of revenue source. The formula changes will require the state to determine eligibility for these extra funds by calculating the percentage that long term care expenditures are of total disability expenditures of boards.

The Department of Health and Social Services estimates that this partial veto will save approximately \$1 million of the \$2.4 million in the bill for funding the needs of the long-term mentally ill. These funds will be available through July, 1977. After that, programs for the long-term mentally ill must be picked up either by available funding, including the per capita formula, or by special needs money.

In 1977, mental health boards and community social service agencies will be required to plan jointly for the provision of services for the long-term mentally ill for the first time. Wisconsin and Mendota Mental Health Institute have just completed a major innovative project in serving these people in the community. In addition to supporting some additional days of care, these funds can help to bring the findings and techniques of the Preventive Assertive Community Treatment (PACT) program to communities, to help in nursing homes, and to develop crisis teams to help in nursing homes. The problems faced by the long-term mentally ill will also be addressed by a work effort in the Department of Health and Social Services to identify and develop appropriate nursing home standards for their clients.

Special Needs for Long-Term Mentally Ill

The proposed language in Section 60m of the bill is a retreat from the progressive direction that has been made in the field of mental health care. The locally responsible community Mental Health Boards (51.42) must meet the entire range of mental health needs found in their respective communities. These local boards

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should serve every category of client on an ongoing basis, rather than operate under the presumption that they should offer services only when specific funds are appropriated for the particular purpose as would have been done by the proposed language.

Therefore, I have item vetoed language which would have singled out a group in order to avoid the situation where local boards extend service to this category only when specific funds are appropriated for the particular purpose. This veto does not prevent exceptional or special needs money from supporting programs serving the long-term mentally ill when the programs use an innovative approach or are judged necessary by the Department.

Local Community Mental Health Boards must assume ongoing responsibility for the long-term mentally ill and fund programs for this client group from the ongoing available funds rather than encourage boards to limit long-term services to the available "special needs" funds.

Planning Assistance for the Long-Term Mentally Ill

Section 60v of the budget bill is duplicative, and therefore, unnecessary. This proposed section would provide additional language requiring the Department of Health and Social Services to assist community health boards in planning and developing a continuing program and services for the treatment of persons with long-term or recurrent mental illness.

However, the statutes, Sections 51.42(10), already provide for this departmental duty under a broader provision which says that the department is to provide staff services to communities to assist in ascertaining local needs and in planning, establishing and operating programs. The current section, furthermore, pertains to all services and needs, not just chronically mentally ill needs.

I have vetoed Section 60v in its entirety.

Alternative Placements for Former Nursing Home Clients

Section 150(14) (dt) of the budget bill allocates \$25,000 to the mental health system to support former nursing home clients in need of alternative placements.

I have vetoed Section 150(14) (dt) not only for the reason that the dollar amount allocated is totally insufficient to responsibly deal with the general program need, but also because the funds are misplaced. A majority of the individuals transferring from nursing homes will be clients of the social services programs such as medical assistance rather than the 51.42 or 51.437 board.

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This proposal is also inappropriate because it is contrary to the State's firmly established policy of using a per capita funding method as the general funding approach.

Generic Drug Positions

Section 150(14) (ks) of the budget bill includes one pharmacist and one-half clerical position to implement the generic drug pricing system authorized during the 1975-77 legislative session by Assembly Bill 469. The positions, as authorized, are limited term positions.

However, in order to comply with the full interest of this progressive legislative program, the positions should be permanent because continuous activities will be required to implement the system. Therefore, I have exercised a partial veto over Section 150(14) (ks) deleting the reference to the positions as limited term positions.

Title XIX Cost Controls

Section 56 will require further formalization of the State's relationship with providers of care and services to Medicaid recipients. While I am in full agreement with the basic intent of this language, the reference to establishing a contract with each provider of service could be interpreted to mean a separately negotiated agreement with each of the approximately 20,000 providers participating in the program.

Such an approach is undesirable since suitable standard contracts can be developed for various classes of providers. Separate contracts would be impossible to affect from the standpoint of the administrative workload involved since no new staff has been provided to administer this provision. Therefore, a partial veto to delete the word "each" has been made.

Nursing Home Personal Care Allowance

In Section 54h of the bill, the Legislature increased the personal care allowance for Title XIX nursing home residents from \$25 to \$35. In doing so, the distinction between earned and unearned income was removed so that total income may not exceed \$35. At present, the limit of \$25 applies to unearned income only such as Social Security, pension payments, Railroad Retirement, etc. Earned income, such as that received through work therapy programs or part-time work programs, may be retained up to \$65 plus one-half in excess of \$65. The effect of the change would

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eliminate the current distinction between earned and unearned income while limiting the retention amount to \$35 of total income.

For most nursing home residents, the elimination of the distinction causes no problem. Only a minority of residents have any earned income.

A problem is created for residents who participate in work therapy and part-time work programs. By limiting total income retention to \$35, there is little or no financial incentive to engage in therapy and work programs. Yet, such programs may represent a vital part of the resident's life for more than purely financial reasons.

Therefore, I have made a partial veto of Section 54h in order to reinstate the necessary distinction between earned and unearned income so that the maximum will apply to unearned income only. The department will then determine the retention policy for earned income and prescribe it administratively.

Medicaid Management Study Staff

Section 145h(12)(c) of the bill would require that the Medicaid Management Study Staff be terminated on May 1, 1977. Removal of the word "staff" would mean that the study would terminate May 1, 1977, but the retention of some staff still would be possible in order to follow through on proposals generated by the study efforts.

It would be extremely unwise to hinder the timely implementation of any urgent recommendations or proposals made by the Medicaid Management Study because an arbitrary date abruptly terminated the staff positions.

It must also be noted that, in considering any possible staff retention, the department would still be limited by the funding provided. Therefore, I have made a partial veto in Section 145h(12)(c) in order to allow possible staff retention beyond the study termination date of May 1, 1977.

Various Studies Recommended by Joint Legislative Committee on Institutional Closings

Section 145h(3), (5), (6), (7), and (8) propose a review of several programs in the Department of Health and Social Services. I have made several partial vetoes in order to remove various reporting dates for a number of study and planning efforts related to improving services to children. The efforts required are very extensive undertakings necessitating substantial investment of many personnel with other full time responsibilities. Agency personnel at all governmental levels and from the private sector

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must have the opportunity to contribute to developing the reports and plans. To short-cut this process would result in "plans" that emerge from planners with little practical experience and run the risk of being ignored, in part or total, by agencies responsible for implementation.

Further, since these study and plan preparation requirements are long term in nature they will span the period during which the department must be reorganized. It is, therefore, desirable to not fully mount these various efforts until reorganization has progressed further and people and structures can be involved that will have ongoing responsibilities in the children's services area in the new organization. As a practical matter, initiation of these efforts will have to await reorganization in most cases anyway because the substantial staff requirements they entail will have to be met through staff redeployment that will have to be made part of the reorganization planning.

For these several reasons, the specific report deadlines and other items of a technical, duplicative and administrative nature have been deleted from the legislation.

Prison Health Care Coordinator Position

Section 150(14)(v) of the budget bill established and provides funding for one physician position to administer a central office of health care services, to be located in the office of the Secretary of the Department of Health and Social Services and to be responsible for the administration and coordination of all health care services in the state correctional institutions.

I have selectively vetoed several requirements which would place undue restraints on the position, thereby reducing both its effectiveness and flexibility.

The partial veto in Section 150(14)(v) removes the requirements that the position be a physician; that the position be located in the office of the Secretary; and that the position administer health care services.

The needed flexibility gained through the partial vetoes which I have made will permit the Secretary to hire a physician with administrative experience or a health care administrator and to locate that person wherever he believes the position can be most effective, but outside of the individual institutions. The position would initially be responsible for coordination for all health care services, including mental health services, in the correctional institutions. Later, depending on decisions made regarding reorganization, the position can be given full administrative authority by the Secretary. In any case, it would be unwise, at this

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time, to approve legislation which could severely limit the Secretary's ability to make needed structural and/or personnel changes under the mandated departmental reorganization.

Management Staff in Health and Social Services

The original annual review bill recommended approval of 12 positions and \$350,000 for management improvement positions for the office of the Secretary. The Legislature approved two positions and authority to redeploy ten positions without seeking Joint Finance approval through s.13.101. The item veto of Section 145h(2) would broaden the transfer authority beyond the ten positions and provide the needed flexibility to accomplish reorganization of the Department by the July, 1977, date mandated in Chapter 39. Without this change, the Secretary's ability to make significant structural and personnel changes will be severely limited.

Power of Governor to Request Audits by the Legislative Audit Bureau

Section 1r of the budget bill deletes the authority of the Governor to request the Legislative Audit Bureau to make special examinations of the accounts and transactions of any department, agency or officer. Although the Joint Committee on Legislative Organization should have primary responsibility to direct the work of the Bureau, it is important for any Governor to retain the authority to initiate special examinations when he believes they are necessary.

In addition, there is no available audit staff within the executive branch to perform such investigations and it would be senseless duplication to create such a staff.

Therefore, I have partially vetoed Section 1r in order to restore an important measure of flexibility in the Governor's authority to request the conduct of special examinations deemed necessary and in the best interests of the state.

Scope of Audit Authority of the Legislative Audit Bureau

Sections 1L, 1q, 1r, 1s, 1t of the budget bill represent a solid step in the right direction outlining the scope of the audit authority to be held by the Joint Legislative Audit Committee. It is in the best public interest to be able to provide a thorough review and an in-depth scrutiny of state funds in the public domain.

However, the sound legislative intent is unfortunately exceeded by this section. This provision could be interpreted as granting audit authority for activities "in government" beyond the State

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level. It is not advisable, at this time, to extend such authority without a comprehensive review of: what the state's role should be vis-a-vis audits of local governments; whether the Legislative Audit Bureau is the most appropriate agency to be performing such audits; or how the cost of such audits is to be financed.

The language in question also appears to be in direct conflict with the decisions reached during the Conference Committee deliberations. Therefore, I have partially vetoed Section 1L in order to clarify and sustain the apparent intent to limit audit authority to state departments and agencies.

Milwaukee County Welfare Audit

Section 52n of the budget bill requires an audit by the Legislative Audit Bureau of the Milwaukee County Welfare Department every three years. The bill also requires the county to direct the audit and that such an audit should study how effective the program is. I have item vetoed the three year requirement because it is my view that audits should be conducted whenever the auditing agency deems them necessary and appropriate. In addition, I have made changes that would allow state control of such an audit. The county that is being audited should be consulted but it should not direct the state auditors. I have also created greater flexibility for the state to decide which agency will audit the Milwaukee County Welfare Agency. Although the Legislative Audit Bureau will receive \$75,000 GPR to conduct an audit in 1976-77, it is not required to do so in the subsequent years. The Department of Health and Social Services is responsible for all welfare programs and should have the primary on-going role in auditing county departments of social services.

Finally, the audit will examine efficiency, management and program questions. Because such an audit is already very broad in scope, I have vetoed the requirements that it also study program effectiveness. An audit of the Milwaukee County Department of Social Services may include program effectiveness but it should do so only after studying efficiency and management issues.

Warehousing and Sale of Materials to Local Governments

Section 5p of the budget bill states that the Department of Administration may warehouse and sell, at cost, staple and standard articles to municipalities. Because Section 5p would essentially duplicate a provision which has been included in a separate bill, Assembly Bill 1227, recently passed by the Legislature, I have vetoed this section.

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Pay Adjustments for Nonrepresented State Employees

Section 145f has been partially vetoed in order to make certain necessary technical changes in this Section.

Those changes are: (1) delete redundant language and (2) strike the reference to the specific sum sufficient appropriations under s. 20.865(1)(c) and (ci). By striking the reference in its entirety it would make it clear the intent to allocate the appropriate share of the costs of the pay adjustment to program revenue and segregated funds.

Relocation Assistance

Section 41rm has been partial vetoed to make the language consistent with the definition of "condemnor" provided in section 41rd. The deletions in this section make clear that relocation payments are required whenever a public body acquires by negotiation property that the public body could have taken by the power of eminent domain.

Appointment Power

Section 1v of the bill would provide a procedure for the review of gubernatorial appointments by State Senate committees during a recess of the Legislature. While I have no objection to the review procedure, which is established in the annual review bill, there are other problems which are caused by these changes.

Section 1v provides that appointments made during a recess of the Legislature -- and approved or not acted upon by a Senate committee -- would no longer be valid if the Senate as a whole did not act to confirm them within 20 days after commencement of the next actual session. That would mean that boards, commissions and even state agencies headed by gubernatorial appointees could be prevented from functioning effectively if the press of other business should keep the Senate from acting on all such appointments within the 20 day period. The problem would be particularly acute in the case of a lengthy recess -- such as the one that will occur between the June session and the convening of the new Legislature in January -- during which a large number of appointments could be made.

I am also vetoing Section 5z, which was revised to refer to the procedure established in Section 1v. I believe that statutory revisions should be made in order to clarify and improve the process by which nominations subject to Senate confirmation are submitted and considered, but the language in this bill needs to be refined.

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Section 1v, for example, refers only to nominations made when the Legislature has adjourned sine die, a circumstance which has occurred for such brief periods in recent years that the provision has become, for all practical purposes, meaningless.

The proposed change in the statutes also attempted to provide for prompt legislative review of appointments made during a recess. I agree with that intention and encourage a careful review of these sections so that appropriate revisions can be formulated in the near future.

Veteran's Economic Assistance Loans

Section 48 of the bill provides that veterans applying for economic assistance must demonstrate to the Department of Veterans Affairs evidence of unsuccessful efforts to obtain available credit upon manageable terms before obtaining a state loan. It appears that this might work an unnecessary hardship on many younger veterans with lower income who are applying for educational loans. The State Board of Veterans Affairs has indicated that it will establish policy guidelines to ensure that veterans demonstrate some level of need before obtaining loans. I have therefore item vetoed the language requiring that veterans give evidence of prior unsuccessful loan applications as a prerequisite for a veterans loan.

Sincerely,
PATRICK J. LUCEY
Governor

State of Wisconsin
Office of the Governor
Madison, Wisconsin

May 4, 1976.

To the Honorable, the Senate:

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

Senate Bill	Chapter No.	Date Approved
67 -----	239 -----	May 4, 1976
97 -----	240 -----	May 4, 1976
99 -----	241 -----	May 4, 1976
137 -----	242 -----	May 4, 1976
146 -----	243 -----	May 4, 1976

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155	----- 244-----	May 4, 1976
196	----- 245-----	May 4, 1976
208	----- 246-----	May 4, 1976
238	----- 247-----	May 4, 1976
242	----- 248-----	May 4, 1976
258	----- 249-----	May 4, 1976
278	----- 250-----	May 4, 1976
291	----- 251-----	May 4, 1976
304	----- 252-----	May 4, 1976
372	----- 253-----	May 4, 1976
470	----- 254-----	May 4, 1976

Sincerely,
PATRICK J. LUCEY
Governor

State of Wisconsin
Office of the Governor
Madison, Wisconsin

April 26, 1976.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advise and consent of the senate do appoint Otis A. Whitcomb, of Hales Corners, as a member of the Hearing Aid Dealers and Fitters Examining Board, to succeed himself, to serve for the term ending July 1, 1981.

Sincerely,
PATRICK J. LUCEY
Governor

Read and referred to committee on Judiciary and Consumer Affairs.

State of Wisconsin
Office of the Governor
Madison, Wisconsin

April 22, 1976.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advise and consent of the senate do appoint Dr. Donald C. Stulken, of Viroqua, as a member of the Optometry

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Examining Board, to succeed Dr. A. L. Lindell to serve for the term ending July 1, 1980.

Sincerely,
PATRICK J. LUCEY
Governor

Read and referred to committee on Agriculture, Human Services, Labor and Taxation.

State of Wisconsin
Office of the Governor
Madison, Wisconsin

April 30, 1976.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advise and consent of the senate do appoint Thomas Boykoff, of Madison, as a member of the Architects, Engineers, Designers and Land Surveyors Examining Board, to serve for the term ending July 1, 1978.

Sincerely,
PATRICK J. LUCEY
Governor

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

State of Wisconsin
Office of the Governor
Madison, Wisconsin

April 30, 1976.

To the Honorable, the Senate:

Pursuant to the provisions of the statutes governing, I have nominated and with the advise and consent of the senate do appoint Harold S. Brekke, of Stoughton, as a member of the Funeral Directors and Embalmers Examining Board, to serve for the term ending July 1, 1978.

Sincerely,
PATRICK J. LUCEY
Governor

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Read and referred to committee on Judiciary and Consumer Affairs.

MOTIONS UNDER SENATE RULE 96

A Certificate of Congratulations by Senator Thompson for BRIDGET ANN COLOHANTY as recipient of the Young American Medal for dedicated service for the Janesville Youth Association for Retarded Citizens.

A Certificate of Commendation by Senator Whittow for ROBERT O. ERTL on his retirement from the Common Council of the City of Milwaukee.

A Certificate of Commendation by Senator Petri for the BIG SISTERS of Fond du Lac County.

A Certificate of Commendation by Senator Maurer for the KENOSHA PEACE OFFICERS on Peace Officers Memorial Day.

A Certificate of Congratulations by Senator Theno for the BARRON COUNTY NEWS-SHIELD on 100 years of publication.

A Certificate of Congratulations by Senator Flynn for WILLIAM SCHMID on his retirement as the West Allis City Attorney.

A Certificate of Congratulations by Senator Theno for MYRTA CHAPPLE on her 100th birthday.

A Certificate of Congratulations by Senator Lorge and Representative Byers for DR. ROGER WILSON, Optometrist on being chosen Optometrist of the Year for Northeastern Wisconsin.

A Certificate of Commendation by Senator Murphy for FRANK CAPPOZZO on his retirement from the Waukesha County Sheriff's Department.

A Certificate of Commendation by Senator Theno for the BARRON COUNTY CAMPUS on its 10th anniversary.

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WEDNESDAY, May 12, 1976.

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

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Bill 27
Senate Bill 354
Senate Bill 425
Senate Bill 431
Senate Bill 456
Senate Bill 469
Senate Bill 484
Senate Bill 491
Senate Bill 514
Senate Bill 581
Senate Bill 582
Senate Bill 590

Correctly enrolled and presented to the Governor on May 10, 1976.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Department of State

May 10, 1976.

To the Honorable, the Senate

Senators:

The following lobbyists have cancelled their registrations for the duration of the 1975-76 legislative session:

Ollie Berge, Wisconsin Association of School District Administrators, as of May 1, 1976.

Irene Bialas, The West Bend Company, as of May 1, 1976.

W. WaDE Boardman, Wisconsin Daily Newspaper League, as of February 10, 1976; Wisconsin Newspaper Association, as of May 5, 1976.

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Sylvia R. Bunyard, American Legion Auxiliary, as of April 30, 1976.

Edgar E. Lien, State Medical Society of Wisconsin, as of April 30, 1976.

David O. Martin, Kimberly-Clark Corporation, as of May 6, 1976.

E. DuWayne Nelson, Wisconsin Hairdressers and Cosmetologist Association, Inc., as of April 30, 1976.

Robert Silberg, Merck & Company, Inc. -- Merck Sharp & Dohm Division, as of May 1, 1976.

Michael J. Wilson, Homemakers International Company -- Upjohn Company, as of March 31, 1976.

James W. Wimmer, Jr., Committee on State Taxation, Flambeau Mining Corporation, Milwaukee Redevelopment Corporation, Pharmaceutical Manufacturers Association, Wisconsin Railroad Association, Wisconsin Association of Temporary Services, and Universal Telephone, Inc., all as of May 6, 1976.

Yours very truly,
DOUGLAS LAFOLLETTE
Secretary of State

EXECUTIVE COMMUNICATIONS.

State of Wisconsin
Office of the Governor
Madison, Wisconsin

May 11, 1976.

To the Honorable, the Senate:

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

Senate Bill	Chapter No.	Date Approved
27 -----	262 -----	May 11, 1976
354 -----	263 -----	May 11, 1976
425 -----	264 -----	May 11, 1976
431 -----	265 -----	May 11, 1976

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456	-----	266	-----	May 11, 1976
469	-----	267	-----	May 11, 1976
484	-----	268	-----	May 11, 1976
491	-----	269	-----	May 11, 1976
514	-----	270	-----	May 11, 1976
581	-----	271	-----	May 11, 1976
582	-----	272	-----	May 11, 1976
590	-----	273	-----	May 11, 1976

Sincerely,
PATRICK J. LUCEY
Governor

CHIEF CLERK'S REPORT

The chief clerk records:

Senate Joint Resolution 15
Senate Joint Resolution 48

Correctly enrolled and deposited in the Office of the Secretary of State on April 8, 1976.

The chief clerk records:

Senate Joint Resolution 14
Senate Joint Resolution 63
Senate Joint Resolution 70
Senate Joint Resolution 71
Senate Joint Resolution 72

Correctly enrolled and deposited in the Office of the Secretary of State on April 12, 1976.