

**JOURNAL OF THE SENATE**

**TUESDAY, July 20, 1976.**

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

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**PETITIONS AND COMMUNICATIONS**

**State of Wisconsin  
Claims Board**

**July 8, 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 June 11, 1976.

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.

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 D. MAIN**  
Secretary

**BEFORE THE  
CLAIMS BOARD OF WISCONSIN**

The Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin, on June 11, 1976, upon the following claims:

<i>Claimant</i>	<i>Amount of Claim</i>
Lutheran Hospital of Milwaukee, Inc.-----	\$ 267.75
Kurt Lipke-----	316.00
Kenneth L. Teske-----	270.20
Warren A. Riege-----	372.56
Deborah A. Tate-----	180.00

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GladysOlson .....	220.33
Winnebago County.....	145.56
William Bennett .....	10,000.00
Mertie Rosenbauer.....	128.15
Druml Hufschmidt Joint Venture.....	34,500.00

### THE BOARD FINDS:

#### 1. *Lutheran Hospital*

Lutheran Hospital of Milwaukee, Inc., claims \$267.75 for damages to a door and lock when a patient under the jurisdictional custody of the Division of Family Services, State of Wisconsin, became hostile on November 5, 1975. The patient was in the psychiatric section of the hospital. The patient was ordered to be in seclusion for 4 hours, but refused and eventually was placed in leather restraints. Payment of the claim was opposed by the Department of Health and Social Services. The hospital was aware of the patient's condition and should have taken precautionary measures before the damage occurred. The patient's behavior was the result of her physical and mental condition, and the hospital's own negligence was the greatest contributing cause of the damage. The Board concludes the claim is not one for which the State is legally liable, nor which should be paid on equitable principles.

#### 2. *Kurt Lipke*

Kurt Lipke, Union Grove, Wisconsin 53182, claims \$316.00 for damages resulting from an alleged fall on the steps at Atherton Hall at Southern Wisconsin Colony on January 13, 1976. Although claimant is an employe of Southern Wisconsin Colony, the alleged incident occurred on his day off. Claimant's measure of damages are 80 hours of sick leave and vacation at \$3.95 per hour. Medical bills of \$428.15 have been paid on the claimant's behalf. Claimant did not lose any wages from his time lost at work. There is no evidence of negligence on the part of the State or its employes contributing to the accident. 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. *Kenneth L. Teske*

Kenneth L. Teske, Merrill, Wisconsin 54452, claims \$270.20 for damages to his cottage at Horseshoe Lake on July 29, 1975, caused by an unemancipated minor ward of the State from Lincoln Boys School who shot up the cabin with a .22 rifle. The Board finds the proper measure of claimant's damages to be \$170.20, and concludes the claim in the reduced amount of \$170.20 should be paid on equitable principles.

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### 4. *Warren A. Riege*

Warren A. Riege, Milwaukee, Wisconsin 53208, claims \$372.50 for damages allegedly caused by an emancipated ward of the State on July 19, 26 and 27, 1975, at 2725 and 2729 West Juneau Avenue. Claimant is the landlord and lives adjacent to this property. Some of the losses and damages claimed are for losses of persons other than the claimant. There is no evidence of negligence on the part of the State or its employes contributing to the damages caused by the alleged break-ins. The Board concludes the claim is not one for which the State is legally liable, not one which should be paid on equitable principles.

### 5. *Deborah A. Tate*

Deborah A. Tate, Milwaukee, Wisconsin 53212, claims \$180.00 for a leather coat stolen from her work station at 2411 West Capitol Drive on October 20, 1975. Claimant knows who stole her coat, but not where that person lives. She has reported this to the police. Claimant alleges the nature of her employment with the Department of Health and Social Services makes her more subject to such a loss. The Board finds that reasonable facilities were made available to her for storing her coat during working hours, and that there is no showing of negligence by the State or its employes resulting in her loss. The Board concludes the claim is not one for which the State is legally liable, nor one which should be paid on equitable principles.

### 6. *Gladys Olsen*

Gladys Olsen, Hammond, Wisconsin 54015, claims \$220.33 for extraordinary damages caused by her foster child to two mattresses in her home from January to December, 1975. Claimant took all reasonable steps to avoid such damages. The mattresses had to be replaced, and the Board concludes the claim should be paid on equitable principles.

### 7. *Winnebago County*

Winnebago County claims \$145.56 damages caused by an escaped inmate from Waupun State Prison on July 26, 1975, who backed into claimant's vehicle with a stolen vehicle owned by the State. There is no showing of negligence by the State or its employes contributing to the accident. The Board concludes the claim is not one for which the State is legally liable, nor one which the State should assume and pay on equitable principles.

### 8. *William Bennett*

William Bennett claims \$10,000.00 damages when struck by an electric hammer he was operating as an inmate at the Wisconsin

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State Reformatory in Green Bay on February 20, 1974. Claimant had a medical history of headaches prior to the injury which left a light scar under his right eye. Claimant has been gainfully employed since leaving the reformatory, and has not lost any time from work because of the injury. Claimant received medical attention following the injury. The Department of Health and Social Services concluded that sec. 56.21, Wis. Stats., was not applicable in the instant case because claimant was not permanently incapacitated by the accident; nor did the accident materially reduce his earning power. The Board concludes the claim is not one for which the State is legally liable, nor one which should be paid on equitable principles.

### 9. *Mertie Rosenbauer*

Mertie Rosenbauer, Superior, Wisconsin 54880, claims \$128.15 for medical expenses related to a fall off the steps at the National Guard Armory in Superior on December 8, 1973. Information submitted to this Board at the hearing discloses that \$101 appears to have been paid by Title 18 or 19 of the Social Security Act. The balance of medical expenses may be payable under public medical care programs. The Board concludes that any portion of the claim paid or payable under public medical care programs be denied, and the balance, if any, be paid to claimant.

### 10. *Druml Hufschmidt*

Druml Hufschmidt Joint Venture, Box 209, Sussex, Wisconsin 53089, claims \$34,450 for recovery of liquidated damages for 106 days at \$325 per day on project 1 794-8 (26) 310 from September, 1972, through November, 1974. Claimant asserts that the 500 days allotted to complete the project was not realistic. Claimant also asserts that \$325 per day for liquidated damages has no realistic comparison to the actual damages of the State, and therefore should be denied. The claimant acknowledged that the number of days allotted and the amount of liquidated damages were part of the contract entered into with the State. Although the claimant's delay in completing the project on time did not delay the opening of the highway bridge involved, the State suffered damages due to supervision and administrative costs. Claimant was granted an additional 57 days to complete the job. Claimant also complained that the job should have shut down in the first winter and remained open in the second winter, although claimant knew the contract required the opposite. Essentially, claimant asserts it should not be penalized for not complying with the terms of a contract it voluntarily entered into with the State, on the grounds that the contract was unrealistic. The Board finds the failure of the

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claimant to comply with the terms of its contract with the State resulted in the \$34,500.00 damages imposed. 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 named claimants should be denied:

Lutheran Hospital of Milwaukee, Inc.

Kurt Lipke

Warren A. Riege

Deborah A. Tate

Winnebago County

William Bennett

Mertie Rosenbauer, except that portion, if any, not paid or payable under public medical care programs.

Druml Hufschmidt Joint Venture

The payment to the following claimants in the following amounts, respectively, is justified under sec. 16.007 (6), Stats.:

Kenneth L. Teske .....	\$ 170.20
Gladys Olson .....	220.33
Mertie Rosenbauer, any portion of the claim not paid under public medical care programs	

Dated at Madison, Wisconsin, this 28th day of June, 1976.

GERALD D. KLECZKA  
Senate Finance Committee

GEORGE MOLINARO  
Assembly Finance Committee

DAVID RIEMER  
Representative of Governor

BARBARA YAFFE  
Representative of Secretary of  
Administration

ALLAN P. HUBBARD  
Representative of Attorney  
General

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State of Wisconsin  
Department of State

June 29, 1976.

To the Honorable, the Senate

Senators:

The following lobbyists have cancelled their registration for the duration of the 1975-76 legislative session.

James G. Derouin; Wisconsin Institute of Scrap Iron and Steel, Wisconsin Manufacturers and Commerce, Wisconsin Paper Council, Wisconsin Council on School Administrative Associations, Wisconsin Pharmaceutical Associations, North Central Airlines, Incorporated, Wisconsin Veterinary Medical Association, Wisconsin Association of Life Underwriters, as of June 30, 1976.

Jack R. DeWitt; Wisconsin Institute of Scrap Iron and Steel, Wisconsin Paper Council, Wisconsin Council of School Administrative Associations, as of June 30, 1976.

Robert R. Heider; League of Suburban Municipalities, Northwestern Mutual Life Insurance Company, Wisconsin State Gulf Association, Associates Financial Services Company, Inc., Tobacco Tax Council, as of June 21, 1976.

Ronald W. Kuehn; Wisconsin Institute of Scrap Iron and Steel, Wisconsin Paper Council, Wisconsin Council of School Administrative Associations, as of June 30, 1976.

Edgar E. Lien; State Bar of Wisconsin, as of June 24, 1976.

Carl E. Lauri; Wisconsin Savings and Loan League, Wisconsin Psychiatric Association, Wisconsin Petroleum Association, State Coalition against Negative Aids, as of June 24, 1976.

Robert G. Marotz; Wisconsin State Brewers Association, as of June 22, 1976.

Ralph W. Renk; First Wisconsin Corporation, as of June 22, 1976.

John P. Varda; Wisconsin Motor Carriers Association, as of June 21, 1976.

Werner A. Wilking; Wisconsin Consumer Finance Association, as of June 19, 1976.

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James W. Wimmer, Jr.; Wisconsin Advertising Publishers Association, as of June 28, 1976.

Yours very truly,  
**DOUGLAS LAFOLLETTE**  
Secretary of State

State of Wisconsin  
Department of State

July 7, 1976.

To the Honorable, the Senate

Senators:

The following lobbyists have cancelled their registration for the duration of the 1975-76 legislative session.

Vincent J. Gallo; Associated Builders & Contractors of Wisconsin, Inc., as of June 30, 1976.

James L. Sankovitz; Marquette University, as of July 1, 1976.

Mary Lehman; Governor's Committee on Migratory Labor, as of July 2, 1976.

Darwin D. Scoon; Wisconsin Realtors Association, as of July 7, 1976.

William E. Malkasian; Wisconsin Realtors Association, as of July 7, 1976.

Yours very truly,  
**DOUGLAS LAFOLLETTE**  
Secretary of State

State of Wisconsin  
Department of State

July 20, 1976.

To the Honorable, the Senate

Senators:

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

Ronald Marien; Household Finance Corporation, as of July 13, 1976.

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**William F. Nelson; Wisconsin Independent Dealer's Association, as of June 30, 1976.**

**Richard Rouse; Wisconsin Electric Power Company, as of July 9, 1976.**

Yours very truly,  
**DOUGLAS LAFOLLETTE**  
Secretary of State

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**EXECUTIVE COMMUNICATIONS**

State of Wisconsin  
Office of the Governor  
Madison, Wisconsin

July 19, 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 Rose Marie Baron, of Milwaukee, as a member of the Optometry Examining Board, to serve for the term ending July 1, 1981.

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

July 19, 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 Mary Reddin, of Milwaukee, as a member of the Medical Examining Board, to serve for the term ending May 1, 1980.

Sincerely,  
**PATRICK J. LUCEY**  
Governor



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

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### MOTIONS UNDER SENATE RULE 96

A certificate of commendation by Senator Kleczka; cosponsored by Representative Tuczynski for **MARK PENDERGAST** for his courageous and heroic efforts in saving the lives of two boys in Milwaukee.

A certificate of commendation by Senator Kleczka; cosponsored by Representative Tuczynski for **JAMES OLSZEWSKI** for his courageous and heroic efforts in saving the lives of two boys in Milwaukee.

A certificate of commendation by Senator Kleczka; cosponsored by Representative Tuczynski for **FRANK RZEPKOWSKI** for his courageous and heroic efforts in saving the lives of two boys in Milwaukee.

A certificate of congratulations by Senator Devitt and Representative Snyder for the **MUKWONAGO HIGH SCHOOL BAND** on the occasion of being selected to play in Canada.

A certificate of congratulations by Senator Theno for **RIGHT REVEREND MONSIGNOR WALTER NOWACKI** on the occasion of his 90th birthday.

A certificate of commendation by Senator Berger for **MR. JOHN LOWRIE** on the occasion of his first visit to America.

A certificate of congratulations by Senator Keppler and Representative Opitz for the **COMMUNITY OF BATAVI, Township of Scott** on the occasion of its 125 year birthday.

The above motions under Senate Rule 96 were read and adopted enmasse.