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

INTRODUCTION OF BILLS

Read first time and referred:

Senate Bill 822

An act relating to revising various provisions of the statutes for the purpose of deleting, replacing or otherwise modifying language that discriminates on the basis of sex (Revisor's Correction Bill).

By Law Revision Committee.

To committee on Senate Organization.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Claims Board

May 3, 1994

To the Honorable the Senate

Enclosed is the report of the State Claims Board covering claims heard on April 21, 1994.

The amounts recommended for payment under $4000 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 bill(s) on the recommended award(s) over $4,000, if any, and will submit such 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.

Sincerely,
Edward D. Main
Secretary

STATE OF WISCONSIN
CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on April 21, 1994, upon the following claims:

Claimant	Amount
1. Wisconsin Grocers Association	3.3 million
2. Fe Fernandez	852.80
3. Yenerich's Food Store, Inc.	11,531.30
4. Kevin & Kristi McCarthy	820.45
5. Sharon Lee A. Hope	17,226.26
6. Mary Regel	250.00
7. Alex Caruso	943.60
8. Wisconsin Counties Association	165,811.31
9. City of Superior	1,366,819.47
10. Gerald Stram	22,500.00
11. Melvin Levy	160.00
12. John Smart	9,455.00
13. Rebecca McCann	1,097.33
14. Emery & Loranna Koval	37,000.00
15. Manitowoc Health Care Center	2,767,018.00
16. Columbia County Home	697,814.00

In addition, the following claims were considered and decided without hearings:

17. Judy Hagner	2,527,398.15
18. Edward Fitzgerald	1,909.71
19. Simon Dick Man Yeung	1,397.63
20. W.E.A. Insurance Corporation	3,724.39
21. Gordon H. Moore	19.85
22. Arlene Kay Miller	130.11
23. Steven Daye	127.00
24. Michael Martin	283.00
25. Leach Farms, Inc.	4,157.39
26. I.C.I. Composites, Inc.	15,923.00
27. Mary Cochrane	1,365.00
28. Mark Fortner	1,532.29

The Board Finds:

1) Wisconsin Grocers Association of Madison, Wisconsin claims 3.3 million dollars for reimbursement of fees allegedly charged by the Wisconsin Gaming Commission without the approval of the Legislature. The fees were as follows: a $250 on-line machine installation fee, a $7 weekly on line fee and a $1,050 fee for changing the location of a machine due to remodeling or relocation. The claimant states that s. 565.10 (8) allows WGC to impose an initial application and an annual fee pursuant to rules promulgated by WGC. The claimant alleges that WGC never received approval of the necessary Administrative Rules, and therefore never received approval by the state to charge the fees. The claimant cites the Legislative Audit Bureau's 1993 Report on Lottery Financial Management Practices which found that, "...no administrative rules regarding the retailer fees were ever promulgated." The report states that proposed rules relating to retailer contract terms and conditions were forwarded to the Legislative Council's Rules Clearinghouse for review as required, however the rules were not approved but instead returned to WGC because of deficiencies. The Council recommended that WGC rewrite the proposed rules, however "it appears that...the Board (WGC) or its staff members made the decision to suspend its action to seek approval of the rules." The claimants further allege that the fees imposed by WGC are telecommunications fees which are not allowed for in state statute. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is

legally liable, nor one which the state should assume and pay based on equitable principles.

2) Fe Fernandez of Whitewater, Wisconsin claims $852.80 medical costs for injuries allegedly sustained when she fell on the aisle steps at the University of Wisconsin, Whitewater's Irving L. Youngs Auditorium on October 13, 1993. Claimant was invited to attend a rehearsal for a production that her sister had choreographed. Claimant alleges the house lights were dimmed and because there are no footlights on the steps in the auditorium, she was unable to see the step down at the end of the row of seats, causing her to fall and fracture her hand. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

3) Yenerich's Food Store, Inc. of Three Lakes, Wisconsin claims $11,531.30 for sales taxes paid because of their failure to return their seller's permit to the Department of Revenue within 10 days of the sale of their business. On June 17, 1991, the claimants sold their grocery store and fixtures for $200,000. All sales taxes were fully paid up to the date of the sale and no sales were made by the claimants after June 17, 1991. This sale would normally be considered an "occasional sale" and therefore be exempt from Wisconsin sales taxes, however, the claimants did not return their seller's permit within 10 days of the date of sale, as required by s. 77.51 (9) stats. and were therefore assessed sales taxes and interest in the amount of $11,531.30. The claimants do not dispute that the permit was not returned within the 10 day time limit, however, they allege that the reason for the oversight was because they had no way of knowing about the requirement as it was not printed anywhere on the permit. They returned the permit on August 17, 1991, prior to the September 1991 expiration date printed on the permit. The claimants understand that perhaps some penalty is appropriate, however, $11,531.30 is an excessive amount and not fair to a small business owner. The claimants also point out that the 10 day requirement was stricken from law by the legislature in 1993, precisely because of the fact that it resulted in excessive penalties on small businesses and because there was no way for the average taxpayer to be aware of the requirement. The Board concludes the claim should be paid in the reduced amount of $4,000.00 based on equitable principles. The Board further concludes under authority of s. 16.007 (6)(m), Stats., payment should be made from the Claims Board appropriation s. 20.505 (4)(d), Stats.

4) Kevin & Kristi McCarthy of Waunakee, Wisconsin claim $820.45 for damages allegedly caused by road construction on Highway 19 during the summer of 1993. After receiving unusually high utility bills for their property, claimants investigated and discovered a damaged utility pipe. Claimants were told by the company performing the repairs that the damage to the pipe did not look accidental, but instead seemed to be related to the digging and earth moving which took place nearby during highway construction. The claimants contacted the Department of Transportation and the contractor for the highway construction project, however neither the DOT nor the contractor felt responsible for the damages. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

5) Sharon Lee A. Hope of Milwaukee, Wisconsin claims $17,226.26 for medical bills, special footwear, travel expenses, babysitting expenses and lost wages allegedly relating to injuries she sustained at State Fair Park on August 11, 1989, while attending the Wisconsin State Fair. Claimant was walking on a paved pedestrian path when she stepped into an unmarked depression approximately 2 inches deep. Claimant fell and fractured her right ankle and bruised her right thumb. Claimant's injury required surgery and extensive physical therapy, causing her to miss 12 weeks of work. Claimant has continuing pain and partial disability of her ankle, and must wear special footwear. Claimant's insurance company has paid $10,013.25 of her medical expenses. Claimant has signed an agreement with her insurance company to repay the $10,013.25 should she be awarded money as a result of this or any other claim. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

6) Mary Regel of Madison, Wisconsin claims $250.00 for damages to vehicle allegedly incurred while claimant was traveling on state business. Claimant is employed by the Department of Development and was returning from business meetings in Milwaukee on January 26, 1994. The car in front of the claimant hit a piece of rubber on the highway and the rubber struck the front of the claimant's car, damaging the headlight, hood and rear bumper. The claimant had tried to obtain a car from the state automotive fleet, but there was not one available. The claimant's insurer has paid $731.32 towards the damages, leaving a balance of $250.00, the amount of the claimant's deductible. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

7) Alex Caruso of Racine, Wisconsin claims $943.60 for back wages and related expenses allegedly resulting from his improper termination from an inmate job at Waupun Correctional Institution. Claimant was employed in Metal Stamping from November 11, 1986, to May 22, 1987, when he was terminated because he received a reprimand for disrespect to a staff member in accordance with Department of Corrections

Administrative rule 303. Claimant alleges that his termination was in violation of the DOC Administrative rules 313.06 & 313.07. The claimant admits he was disrespectful, however, cites DOC 313.07, stating that his conduct was not related to his job performance which has always been very highly rated, and therefore, was not grounds for termination. He appealed the decision to the Due Process Committee, which upheld the termination, then filed an appeal on June 22, 1987, with the Inmate Complaint Review System. Claimant was eventually reinstated at his former job, at his former rate of pay ($.76) on October 26, 1987. The Inmate Complaint Review System denied ever receiving claimant's appeal in June of 1987, and therefore informed the claimant that his appeal was not submitted in a timely fashion and denied him back pay. The claimant maintains that his appeal was correctly submitted and that he has been in continual correspondence with the Inmate Complaint Review System since May 21, 1987, and therefore, should not be denied back pay. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

8) Wisconsin Counties Association of Madison, Wisconsin claims $165,811.31 for reimbursement of court costs pursuant to s. 814.25, Stats. During the years 1987 to 1989, the counties submitted claims to the Attorney General's Office for reimbursement of certain court costs pursuant to s. 814.25, Stats. The Attorney General's Office acknowledged the validity of the claims but stated that they lacked funds to pay the claims. The claimants attempted to get a bill authorizing payment passed by the Legislature, however the bill did not pass. While the claimants' claims for reimbursement were pending, the Legislature repealed s. 814.25, Stats. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

9) The City of Superior, Wisconsin claims $1,366,819.47 for refund of taxes paid to the State under a statute found to be illegal and unconstitutional, and for legal expenses incurred by the City since 1988. On June 15, 1986, the Wisconsin Supreme Court declared s. 70.40 Stats., to be in violation of the U.S. Constitution. As a result of that ruling, the City was ordered to repay taxes collected under that statute on behalf of the State, from Burlington Northern Railroad since 1977. The City filed a claim against the State and on August 17, 1987, the Claims Board recommended payment of $1,575,932.89 to the City of Superior, for the State's share of the proceeds from the tax, plus 5% interest to November 2, 1987, based on equitable principles. 1987 Wisconsin Act 414 awarded $1,613,364.53 to the City of Superior on June 20, 1998. Section 70.40, Stats., was amended in 1985 and the City asserted that Burlington Northern still owed taxes under s. 70.40, for periods after 1985. Burlington Northern commenced an action against the City in the U.S. District Court for the Western District of Wisconsin seeking a declaration that the amended statute was invalid because it violated the Railroad Revitalization and Regulatory Reform Act of 1976. The federal case was initially decided by the District Court adversely to Burlington Northern. However, Burlington appealed to the U.S. Court of Appeals for the Seventh Circuit. On May 20, 1991, the U.S. Court of Appeals for the Seventh Circuit held that the amended statute violated the Railroad Revitalization and Regulatory Reform Act of 1976. The City and Burlington entered into a settlement agreement dated September 7, 1993, agreeing that all s. 70.40 taxes paid by Burlington for the years 1986 through 1989 should be refunded to Burlington, with appropriate interest. The City, as required by law, collected a tax found to be illegal and unconstitutional and now seeks refund for the 30 percent portion it paid to the State. The Board recommends the claim be paid in the reduced amount of $700,000.00. The Board further recommends under authority of s. 16.007 (6m), Stats., payment should be made from the Claims Board appropriation s. 20.505 (4)(d), Stats.

10) Gerald Stram of Prairie du Chien, Wisconsin claims $22,500.00 reimbursement for loss of mineral rights on his land. In 1992, claimant applied to the Lower Wisconsin State Riverway Board for approval to proceed with quarrying activity on his property in Crawford County. His application was denied by LWSRB pursuant to s. 30.45 (5), Stats., which prohibits quarrying on lands within the Riverway. The claimant has been offered $.25 per yard for his gravel. The claimant alleges that the loss of his quarrying rights constitutes a taking of his property for which he should be compensated as required under the Wisconsin and U.S. Constitutions. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

11) Melvin Levy of Chicago, Illinois claims $160.00 for damages to his boat trailer allegedly incurred at the Wisconsin River Bridge Landing on October 11, 1993. Claimant was backing his trailer down the cement ramp to launch his boat. One of the trailer tires became wedged in a gap between the two cement ramps. In the process of freeing the trailer, the axle and wheel were bent and the tire flattened and damaged. Claimant contends that the gap has been a long existing and dangerous problem at this launch and that it was fixed after this incident. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

12) John Smart of Chugiak, Alaska claims $9,455.00 for crop damage and loss allegedly relating to incorrect

planting advice given by a Department of Natural Resources forester in February of 1992. The claimant consulted the DNR for advice regarding the planting of trees on 50 acres of land. The DNR forester recommended planting 45,000 trees on the site: 10,000 ash, 22,500 white pine and 12,500 red oak. The claimant purchased the recommended seedlings for $10,876.60 from a private nursery and a DNR nursery and hired a private forestry to plant the seedlings for $8,550.00. Due to the unusually heavy rainfall in the summer of 1993, most of the claimants 50 acre property was flooded and the seedlings were planted in standing water. In July of 1993, the DNR informed the claimant that the original planting recommendation was poor, and that only about 8 acres, or 16% of the 50 acre site was appropriate for the tree species recommended, even under optimum conditions. The DNR also told the claimant they would no longer recommend herbicide weed control treatments for cost sharing because the wet conditions made herbicide application ineffective. Approximately 42 out of 50 acres are not expected to survive. The claimant acknowledges that the unusually heavy rainfall and wet planting conditions are partially responsible for the failure of the seedlings. The claimant also maintains that the DNR's recommendation was very poor regarding choice of tree species, did not include any information regarding fall weed control, and therefore substantially contributed to the loss of the trees. The claimant received $9,455.00 in federal assistance, leaving a balance of $9971.60. The claimant believes that a fair settlement for his losses is 84% of his remaining expenses, $8,376.14. The Board concludes the claim should be paid in the reduced amount of $4,000.00 based on equitable principles. The Board further concludes under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Natural Resources appropriation 20.370 (1)(mu), Stats.

13) Rebecca McCann of Madison, Wisconsin claims $1,097.33 for medical bills incurred because the Department of Industry, Labor & Human Relations allegedly misinformed her of her insurance status. Claimant worked as a Limited Term Employe for DILHR from October 1991, to February 1993. After she had worked the required number of hours, she became eligible for insurance, submitted the necessary paperwork and was accepted. One pay period before her insurance became effective; she accepted a LTE position with Employe Trust Funds. She was not informed that because she had transferred to a new department, she would no longer be eligible for insurance and would need to work the required number of hours at her new job before she would become eligible again. She found this information out on her own but then received insurance cards from Physician's Plus, so her mother contacted DILHR payroll to find out if the claimant was eligible. DILHR payroll informed the claimant's mother that the insurance had mistakenly been paid for May, therefore, the claimant was covered for the month of May and could go ahead and use her health insurance if she wished. The claimant then contacted Physician's Plus to double check, and they said that her insurance was effective as of May 1st. At the beginning of June, she contacted Physician's Plus to find out how to continue her insurance on her own and they informed her that she was still covered by the state. She called DILHR payroll and was told that she was no longer covered by the state. The claimant admits that she is responsible for the bills incurred in June, since DILHR informed her she was no longer covered, however, she does not feel responsible for the bills incurred in May, because both the state and Physician's Plus told her she was covered for the month. The Board conclude the claim should be paid in the reduced amount of $600.00 based on equitable principles. The Board further concludes under authority of s. 16.007 (6m), Stats., payment be made from the Department of Industry, Labor and Human Relations appropriation 20.445, Stats.

14) Emery and Loranna Koval of Mason, Wisconsin claim $37,000.00 for the cost of repair and rebuilding of a Tri-State pre-manufactured home purchased on November 17, 1978. The home requited substantial repairs and rebuilding due to moisture damage which caused rotting. The claimants allege that the home was pre-inspected and approved by the Department of Industry, Labor & Human Relations (DILHR), and that the home should never have passed inspection because it was substandard. Claimants allegedly incurred $37,000.00 in repair costs ($8,224.70 for materials and $28,775.30 for labor). The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles (Member Linton dissenting).

15) Manitowoc Health Care Center of Manitowoc, Wisconsin claims $2,767,018.00 for reimbursement for Medicaid services provided under a Provider Agreement with the Department of Health & Social Services. Claimants allege that they have been underpaid for their services from July 1, 1984 to June 30, 1991 under H&SS's the Wisconsin Nursing Home Reimbursement Formula used by H&SS since 1984. In the 1984-85 Reimbursement Formula H&SS changed the manner in which labor reimbursement rates were figured by introducing the Direct Care Labor Cost Region classification system. The claimants allege that the DCLCR system is an invalid system because: 1) H&SS did not follow mandatory public notice and comment requirements set forth in federal regulations. 2) H&SS made assurances to the federal Health Care Financing Administration that they had followed the public notice and comments regulations. These assurances are required before HCFA will approve a Medicaid Plan and the invalidity of the H&SS assurances renders the HCFA approval invalid. 3) H&SS violated federal law in that they did not specify comprehensively in the State Medicaid Plan the methods and standards used in arriving at the DCLCR classifications. 4) H&SS failed to comply with the Wisconsin Administrative Procedures Act in developing

and implementing the DCLCR system. The Claimants also allege that the continued use of the DCLCR system is prohibited because H&SS has not updated the DCLCR classifications annually to account for labor cost variations as required by State law, and because H&SS continued to use the DCLCR system after they were made aware of serious and pervasive flaws in the system, thereby acting in a capricious and arbitrary manner. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles (Member Leean dissenting).

16) Columbia County Home of Portage, Wisconsin claims $697,814.00 for reimbursement for Medicaid services provided under a Provider Agreement with the Department of Health & Social Services. Claimants allege that they have been underpaid for their services from July 1, 1984 to June 30, 1991 under H&SS's the Wisconsin Nursing Home Reimbursement Formula used by H&SS since 1984. In the 1984-85 Reimbursement Formula H&SS changed the manner in which labor reimbursement rates were figured by introducing the Direct Care Labor Cost Region classification system. The claimants allege that the DCLCR system is an invalid system because: 1) H&SS did not follow mandatory public notice and comment requirements set forth in federal regulations. 2) H&SS made assurances to the federal Health Care Financing Administration that they had followed the public notice and comments regulations. These assurances are required before HCFA will approve a Medicaid Plan and the invalidity of the H&SS assurances renders the HCFA approval invalid. 3) H&SS violated federal law in that they did not specify comprehensively in the State Medicaid Plan the methods and standards used in arriving at the DCLCR classifications. 4) H&SS failed to comply with the Wisconsin Administrative Procedures Act in developing and implementing the DCLCR system. The Claimants also allege that the continued use of the DCLCR system is prohibited because H&SS has not updated the DCLCR classifications annually to account for labor cost variations as required by State law, and because H&SS continued to use the DCLCR system after they were made aware of serious and pervasive flaws in the system, thereby acting in a capricious and arbitrary manner. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles (Member Leean dissenting).

17) Judy Hagner of Milwaukee, Wisconsin claims $2,527,398.15 for back unemployment benefits and pain and suffering allegedly caused by errors and harassment by employes of the Department of Industry, Labor & Human Relations. Claimant asserts DILHR has illegally denied her unemployment benefits since 1985. She claims that DILHR employes incorrectly filled out her paperwork and made mistakes in her file which caused her to be charged incorrectly for a $661.00 overpayment of benefits. The claimant claims she never received any unemployment benefits from DILHR. The claimant filed bankruptcy and the $661.00 debt was discharged in bankruptcy court. The claimant believes that since the debt has been discharged DILHR should pay her back unemployment benefits, interest and pain and suffering. The claimant further contends that she has been awarded the money in several federal court decisions. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

18) Edward Fitzgerald of Holmen, Wisconsin claims $1,909.71 for moving and storage expenses not reimbursed by the Department of Transportation which were allegedly incurred because DOT reimbursement instructions are unclear and confusing. The claimant accepted a promotion in which required moving from Wisconsin Rapids to La Crosse. The claimant consulted with Don Smith in the DOT Administration Section to find out the rules for moving reimbursement and was referred to the Transportation Administrative Manual, Section 8-8. The claimant alleges that this section is very confusing and that both he, and Mr. Smith believed that all of the claimant's moving and storage expenses would be paid since his expenses were under the $11,082.00 limit. The claimant found out in June, 1993, after he had already sold his home and moved his belongings into storage in La Crosse, that all of his expenses would not be reimbursed under TAM 8-8. The claimant alleges that many other employes in DOT have acknowledged that TAM 8-8 is very confusing and should be significantly changed in order to clarify the rules. The claimant does not believe he was intentionally misled, but believes that he should be compensated because of the confusion involved in interpreting TAM 8-8. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

19) Simon Dick Man Yeung of Madison, Wisconsin claims $1,397.63 for auto damages allegedly incurred on March 19, 1993. Claimant was driving on North Randall street when a University Police car suddenly pulled out in front of his vehicle causing a collision which resulted in damages to the front right-hand side of his vehicle. The claimant has a $500.00 insurance deductible. The Board concludes the claim should be paid in the reduced amount of $500.00 based on equitable principles. The Board further concludes under authority of s. 16.007 (6m), Stats., payment be made from the University of Wisconsin appropriation 20.285 (1)(a), Stats.

20) W.E.A. Insurance Corporation of Madison, Wisconsin claims $3,724.39 for subrogation damages

allegedly related to injuries sustained in an accident at the University of WisconsinWhitewater Bookstore on December 10, 1992. Claimant's insured entered the UW Bookstore after walking on slushy sidewalks. As she proceeded down the stairs her feet "went out from under" her and she fell, injuring her back. Based on their long standing policy regarding subrogation claims, the Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

21) Gordon H. Moore of Minocqua, Wisconsin claims $19.85 for miscellaneous expenses allegedly relating to his purchase of a vehicle at a state vehicle auction. On September 11, 1993, the claimant purchased three vehicles at a state auction in Antigo, Wisconsin. The title for one of the vehicles incorrectly stated: "in excess of mechanical limits." The state agreed to buy back the vehicle for the purchase price ($2,350.00) and also pay claimant's related expenses. The state sent the claimant a letter stating: "The Department of Administration will issue you a check in that amount within fourteen days. When we receive this check, we will send it to you." The claimant did not receive a check until October 29, 1994. He is requesting reimbursement for: $10.86 for 12% interest on $2,350 for 2 weeks, $8.00 for long distance telephone calls, $.29 for a stamp, and $.70 for copying costs. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

22) Arlene Kay Miller of Ashland, Wisconsin claims $130.00 for replacement of two front tires for her vehicle. Claimant works as a probation and parole agent for the Department of Corrections. On 8/21/92, 9/15/92, 5/20/93, 6/4/93 and 7/30/93 the two front tires of claimant's vehicle were stapled or slashed. The claimant has been told that due to the numerous repairs to the tires, they will have to be replaced. The claimant believes that these incidents are directly related to her job as a probation and parole agent and that one of her clients is retaliating against her. Claimant therefore, requests reimbursement for the cost of replacing the tires. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

23) Steven Daye of Marinette, Wisconsin claims $127.00 for damages to his vehicle allegedly incurred in the course of his duties as a Department of Natural Resources Warden. On September 29, 1993, the claimant was authorized by his supervisor to use his personal vehicle while investigating hunting violations. Use of his personal vehicle was authorized because it was necessary for the claimant to use an unidentifiable vehicle so that he would not be recognized as a DNR Warden. In the process of the investigation, the claimant's truck hit a hole hidden in the grass and the side running board was damaged. The Board concludes the claim should be paid in the amount of $127.00 based on equitable principles. The Board further concludes under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Natural Resources appropriation 20.370 (3)(mu), Stats.

24) Michael Martin of Madison, Wisconsin claims $283.00 for damages to his vehicle allegedly incurred on November 22, 1993. Claimant is employed by the Department of Natural Resources as a law enforcement officer at Devil's Lake State Park. The windshield of the claimant's vehicle was broken by an unknown person while claimant was on duty. The parking lot in which law enforcement officers are required to park is not lit and not visible from any other manned park buildings because the lot is blocked by the park headquarters, which is closed during evening hours. The claimant's vehicle has been vandalized three times this year. The claimant believes these acts of vandalism are retaliations against law enforcement actions taken by him in the course of his job. The evening that his windshield was broken, the claimant had written several notices denying park admission and citations for gun/deer violations. The claimant believes the vandalism is directly related to the duties of his job and therefore, requests compensation from the state for his damages. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

25) Leach Farms, Inc. of Berlin, Wisconsin claims $4,157.39 for cost of installing electrical outlets in migrant housing and attorney fees allegedly relating to a dispute with the Department of Industry, Labor & Human Relations regarding the requirements of the Migrant Housing Code. During the week of January 17, 1993, the claimant requested an inspection of its migrant camps. The Migrant Labor Inspector, Robert Ringstad, from the Bureau of Migrant Services, cited the claimant for violations of the electrical code. The claimant disagreed with the inspector, stating that he was incorrectly interpreting the code, however, the inspector would not change his decision and told the claimant that the camps would not be certified until additional electrical outlets were installed. The claimant contacted the State Building and Safety Department and was told that the Bureau was incorrect and that the outlets were not needed to meet state code. The claimant then conveyed this information to the Bureau but they upheld the decision of the inspector and once again told the claimant that his camps would not be certified until he installed additional outlets. The claimant hired an attorney on February 4, 1993, in order to assist in his disagreement with the Bureau. The Bureau continued to stand by the inspector's decision and therefore, on February 11, 1993, the claimant began to install the

additional outlets in order to have his camps ready for the arrival of his workers on February 28, 1993. On February 19, 1993, DILHR sent the claimant a letter stating that the extra outlets were not needed unless he was renovating housing or constructing new housing, which would have to be built by the new standard, effective March 1, 1994. The claimant asserts that not only was his housing in compliance with the old code, but also already met the standards of the new code, as the housing had 4 outlets per room. The claimant alleges that he spent a month trying to work out this dispute with DILHR to no avail and therefore, installed the outlets as instructed. The claimant disputes DILHR's charge that he could have waited to install the outlets, stating that he had workers arriving February 28, 1993, and therefore had to have the camp ready. The claimant also asserts that DILHR insisted over and over that the camp would not be certified until the outlets were installed and since the claimant had no possible way of knowing that DILHR would later change its mind, he did as he was instructed and installed the outlets in order to ensure that he was in compliance with the law. The Board concludes the claim should be paid in the reduced amount of $2,700.00 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Industry, Labor & Human Relations appropriation 20.445, Stats.

26) I.C.I. Composites, Inc. of Wilmington, Deleware claims $15,923.00 for refund of fee paid to the Secretary of State's Office in connection with the filing of its 1993 Wisconsin Foreign Corporation Annual Report. Sales for the State of Wisconsin were incorrectly stated on the report. The correct sales figure for the report should have been $1,307,961.00 which would have resulted in the claimant paying a $50 filing fee. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

27) Mary Cochrane of Monona, Wisconsin claims $1,365.00 for medical expenses allegedly incurred due to negligence of economic support workers when she applied for Medical Assistance. On January 25, 1993, claimant applied for Medical Assistance for coverage of medical expenses related to her 18 year old daughter. The initial application was denied because claimant mistakenly submitted the form in her daughter's name instead of her own name. During an eligibility interview on February 3, 1993, an economic support worker instructed claimant to sign a withdrawal of application statement for the application. The support worker did not complete the eligibility interview because she incorrectly assumed that claimant was not eligible because her daughter was 18. Claimant was not instructed how to correct the initial application nor was she informed of the consequences of the withdrawal of the application: that she would not be allowed to appeal the initial denial. Claimant's only recourse was to file a new application, which resulted in the loss of one month's Medical Assistance coverage. Claimant alleges that a lack of state guidelines for economic support workers resulted in an incomplete interview. Had the economic support worker interviewed the claimant completely, the initial application would not have been denied. The Board concludes the claim should be paid in the amount of $1,365.00 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Health & Social Services appropriation 20.435 (1)(b) and 20.435 (1)(o), Stats.

28) Mark S. Fortner of Lawton, Oklahoma claims $1,532.29 refund of income tax returns withheld by the Department of Revenue for the years 1987-1992. Claimant was notified in 1987 of a tax liability of $1,827.29 for failure to file income tax for the years 1984, 1985 and 1986. During the period of 1987-1992, claimant, a member of the armed forces, was told by the Department of Revenue and military assistance officers that the tax assessment was correct and that he had no recourse other than to pay the liability. Claimant's tax returns were completed for the years in question and it was found that the claimant owed no tax, and was due refunds of $48 and $66 for the years 1985 and 1986 respectively. The DOR informed the claimant that he could not be refunded the returns because of the statute of limitations. Claimant asserts that as a member of the armed forces who was on active duty during the years 1987-1992, he is entitled to protection under the Soldier's and Sailors' Civil Relief Act of 1940, U.S.C. Appendix, Section 205. This section tolls statutes of limitations during the period of military service of any military plaintiff or defendant for the duration of military service. This Act is applicable to state and municipal governments and administrative proceedings. Therefore, the statute of limitations is not applicable to the claimant and the state may not lawfully withhold his tax returns. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

Dated at Madison, Wisconsin this 3rd day of May, 1994

Joseph Leean
Senate Finance Committee

Barbara Linton
Assembly Finance Committee

William H. Wilker
Representative of the Attorney General

Edward D. Main, Representative of the
Secretary of Administration

Karen Andersen
Representative of the Governor

State of Wisconsin
Ethics Board

May 10, 1994

To the Honorable the Senate:

At the direction of s. 13.685(7), Wisconsin Statutes, I am furnishing you with the names of organizations recently registered with the Ethics Board that employ one or more individuals to affect state legislation or administrative rules, and notifying you of changes in the Ethics Board's records of licensed lobbyists and their employers. For each recently registered organization I have included the organization's description of the general area of legislative or administrative action that it attempts to influence and the name of each licensed lobbyist that the organization has authorized to act on its behalf.

Organizations recently registered: Below are the names of organizations recently registered with the Ethics Board as employing one or more individuals to affect state legislation or administrative rules.

U.S. Generating Co.
Subjects: Power production, energy planning, cogeneration, general environmental.

Cahill, Jane

Organization's termination of lobbyists: Each of the following organizations previously registered with the Ethics Board as the employer of a lobbyist has withdrawn, on the date indicated, its authorization for the lobbyist identified to act on the organization's behalf.

Dairyland Greyhound Park, Inc.

Essie, Patrick 1/1/94

Organization's modification or amendment of records: The organization listed below, previously registered with the Ethics Board, has indicated the following modifications to its records:

St. Croix Chippewa Indians of Wisconsin Changes in summary of areas of state legislation or administrative rules the organization may attempt to influence:
Subjects: Indian gaming, and matters affecting the St. Croix Chippewa Indians of Wisconsin, its enterprises or its members.

Also available from the Wisconsin Ethics Board are reports identifying the amount and value of time state agencies have spent to affect legislative action and reports of expenditures for lobbying activities filed by the organizations that employ lobbyists.

Sincerely,
R. Roth Judd
Executive Director

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor

May 10, 1994

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint PATRICK E. DOYLE of Milwaukee, as a member of the Study Committee on Juvenile Justice Issues pursuant to the statute governing, to serve for the term ending at the pleasure of the Governor.

Respectfully,
Tommy Thompson
Governor

Read and referred to committee on State Government Operations and Corrections.

State of Wisconsin
Office of the Governor

May 10, 1994

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint DEAN A. FIELD of Waukesha, as a member of the Examining Board of Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board pursuant to the statute governing, to serve for the term ending July 1, 1997.

Respectfully,
Tommy Thompson
Governor

Read and referred to committee on State Government Operations and Corrections.

State of Wisconsin
Office of the Governor

May 10, 1994

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint JOAN PLEUSS of Milwaukee, as a member of the Dietitians Affiliated Credentialing Board pursuant to the statute governing, to serve for the term ending July 1, 1998.

Respectfully,
Tommy Thompson
Governor

Read and referred to committee on State Government Operations and Corrections.

State of Wisconsin
Office of the Governor

May 10, 1994

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint DOLORES A. PRICE of Boyd, as a member of the Dietitians Affiliated

Credentialing Board pursuant to the statute governing, to serve for the term ending July 1, 1998.

Respectfully,
Tommy Thompson
Governor

Read and referred to committee on State Government Operations and Corrections.

State of Wisconsin
Office of the Governor

May 10, 1994

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint SUSAN KASIK-MILLER of Eau Claire, as a member of the Dietitians Affiliated Credentialing Board pursuant to the statute governing, to serve for the term ending July 1, 1999.

Respectfully,
Tommy Thompson
Governor

Read and referred to committee on State Government Operations and Corrections.

SENATE CLEARINGHOUSE ORDERS

Senate Clearinghouse Rule 94-8

Relating to regulation of hold-over rooms as shelter care facilities.

Submitted by Department of Health and Social Services.

Report received from agency, May 10, 1994.

Referred to committee on Health, Human Services and Aging, May 11, 1994.

Senate Clearinghouse Rule 94-36

Relating to educational prerequisites for application for a license to practice chiropractic, effective with applications received on and after July 1, 1998.

Submitted by Department of Regulation and Licensing.

Report received from agency, May 10, 1994.

Referred to committee on Health, Human Services and Aging, May 11, 1994.

Senate Clearinghouse Rule 94-37

Relating to temporary permits to practice chiropractic.

Submitted by Department of Regulation and Licensing.

Report received from agency, May 10, 1994.

Referred to committee on Health, Human Services and Aging, May 11, 1994.

Senate Clearinghouse Rule 94-54

Relating to patient records.

Submitted by Department of Regulation and Licensing.

Report received from agency, May 10, 1994.

Referred to committee on Health, Human Services and Aging, May 11, 1994.