

STATE OF WISCONSIN  
**Senate Journal**  
Ninety–Sixth Regular Session

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WEDNESDAY, March 24, 2004

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The Chief Clerk makes the following entries under the above date.

**REPORT OF COMMITTEES**

The committee on **Labor, Small Business Development and Consumer Affairs** reports and recommends:

GORDON, PAUL, of Chippewa Falls, as a Commissioner of the Wisconsin Employment Relations Commission, to serve for the term ending March 1, 2009.

Confirmation.

Ayes, 5 – Senators Reynolds, Kedzie, Zien, Decker and Hansen.

Noes, 0 – None.

Thomas Reynolds  
Chairperson

**PETITIONS AND COMMUNICATIONS**

State of Wisconsin  
Office of the Governor

March 17, 2004

The Honorable, The Senate:

I am vetoing **Senate Bill 49**. This bill would change the state standard for admissibility of lay and expert witness testimony in our courts and administrative hearings to conform with federal rules. Under current law, the reliability of the evidence is a weight and credibility issue for the jury, and any challenges to this evidence are made through vigorous cross-examination or other means of impeachment. In contrast, this bill would require trial judges to assume a significant “gatekeeper” function in keeping from the jury scientific evidence that they determine is not reliable.

I am vetoing this bill because there is no evidence that Wisconsin’s existing rules governing the admissibility of lay and expert witness testimony has produced unfair or illogical results. Moreover, under current law, Wisconsin judges already may reject evidence because it is superfluous, prejudicial, or inherently improbable.

Furthermore, this bill adds potential confusion to the administration of justice. Although the bill was amended in the Senate to exclude its applicability to criminal cases and Chapter 980 sexual predator cases, applying two separate standards to the admissibility of lay/expert witness testimony based on whether the case is civil or criminal is nonsensical. Under the bill as amended, the admissibility standard that would apply to a psychologist that testifies in a criminal sexual assault trial would be different than that applied to the same psychologist in a civil sexual assault trial.

In sum, the proponents of change in the evidentiary rules governing expert testimony bear the burden of demonstrating

a compelling need for such change and the superiority of proposed new measures. The standard for the admissibility of lay and expert witness testimony in Wisconsin has worked effectively for decades because it places the final determination of reliability where it belongs: in the hands of a jury.

Sincerely,

JIM DOYLE  
Governor

State of Wisconsin

March 12, 2004

The Honorable, The Senate:

Please withdraw my name as a cosponsor of **Senate Resolution 32**.

Sincerely,

TED KANAVAS  
State Senator

State of Wisconsin  
Office of the Secretary of State

To the Honorable, the Senate:

<u>Bill, Joint Reso- lution or Resolu- tion Number</u>	<u>Act Number or Enrolled Number</u>	<u>Publication Date</u>
<b>Senate Bill 100</b>	Wisconsin Act 145	March 29, 2004
<b>Senate Bill 223</b>	Wisconsin Act 148	March 29, 2004
<b>Senate Bill 247</b>	Wisconsin Act 149	March 29, 2004
<b>Senate Bill 103</b>	Wisconsin Act 151	March 29, 2004
<b>Senate Bill 344</b>	Wisconsin Act 153	March 29, 2004
<b>Senate Bill 470</b>	Wisconsin Act 154	March 29, 2004

Sincerely,  
DOUGLAS LA FOLLETTE  
Secretary of State

State of Wisconsin  
Office of the Secretary of State

To the Honorable, the Senate:

<u>Bill, Joint Reso- lution or Resolu- tion Number</u>	<u>Act Number or Enrolled Number</u>	<u>Publication Date</u>
<b>Senate Bill 287</b>	Wisconsin Act 158	March 30, 2004

Sincerely,  
DOUGLAS LA FOLLETTE  
Secretary of State

**State of Wisconsin  
Department of Health and Family Services**

March 4, 2004

The Honorable, The Legislature:

The biennial budget bill, [1983 Wisconsin Act 27](#), created s. [46.275](#), Community Integration Program (CIP) for Residents of State Centers. The intent of this program "is to relocate persons from the state centers for the developmentally disabled into appropriate community settings with the assistance of home and community-based services and with continuity of care. The intent of the program is also to minimize its impact on state employees through redeployment of employees into vacant positions." S. [46.275\(5m\)](#) requires the Department to submit a report to the Joint Committee on Finance and to the Chief Clerk of each house of the Legislature describing the program's impact during the preceding calendar year on state employees, including the Department's efforts to redeploy employees into vacant positions and the number of employees laid off.

For the period of January 1, 2003 to December 31, 2003, 23 center residents were placed into the community. In state fiscal year 2003, the center budgets were reduced by \$821,250 and 16.89 FTE as a result of CIP placements. For the period July 1, 2003 through December 31, 2003, sufficient reductions in the fiscal year 2004 operating budget will be made to reflect reductions for CIP placements. During this time period, the Department has begun the significant downsizing of Northern Wisconsin Center (NWC). A total of four layoffs have occurred as of December 31, 2003 at NWC due to the downsizing effort. There have been only 10 layoffs at the centers because of the CIP program since the program began in 1983. All other reductions were absorbed through attrition of employees.

Sincerely,

HELENE NELSON  
Secretary

**State of Wisconsin  
Department of Health and Family Services**

March 4, 2004

The Honorable, The Senate:

[1999 Wis. Act 113](#) established requirements intended to strengthen protections for children from harmful lead exposures in their homes. The provisions require, among other things, that the Department develop and maintain a statewide registry of lead-free and lead-safe housing, the standards that properties must meet to be certified lead-free or lead-safe, and implement the voluntary and mandatory provisions of the registry.

Attached is the annual status report to the legislature, as required by [1999 Wisconsin Act 113](#), Section 32, (9c)(a), that provides the required facts about activities related to reducing lead-based paint hazards in residential property. The report includes facts about the Lead-Free/Lead-Safe Registry of properties, the Lead Training, Accreditation and Certification Program, and the Wisconsin Childhood Lead Poisoning Prevention Program.

As also required by [1999 Wisconsin Act 113](#), the Department will submit a report evaluating the success or failures of Act 113 and rules promulgated under Act 113, in reducing the incidence of lead poison in children by March 1, 2005.

Thank you for distributing this report to members of the Senate. Questions about this report may be referred to Gail Boushon at 608-267-2289.

Sincerely,

HELENE NELSON

Secretary

**State of Wisconsin  
Department of Health and Family Services**

March 16, 2004

The Honorable, The Senate:

The Bureau of Health Information, Department of Health and Family Services, is pleased to submit to the Governor and the Legislature the *Wisconsin Inpatient Hospital Quality Indicators Report, 2001*. The data for this report were collected under section 153.05, Wisconsin Statutes, and are published as authorized by the requirements of HFS 120.26, Wisconsin Administrative Code.

This report provides information about quality of care in Wisconsin hospitals. The quality measures included in this report were derived from hospital data submitted to the Bureau of Health Information by general medical and surgical hospitals in the state for 2001 inpatient stays. The report provides information about procedure volume, utilization and inpatient mortality for common conditions and procedures. As required by HFS 120, the report is consistent with national recognized indicators of quality, displays quality indicator variation across Wisconsin hospitals, protects the anonymity of individual hospitals, and provides hospitals with useful information for internal quality improvement.

Sincerely,

HELENE NELSON  
Secretary

**State of Wisconsin  
Department of Health and Family Services**

March 16, 2004

The Honorable, The Senate:

The Bureau of Health Information, Department of Health and Family Services, is pleased to submit to the Governor and the Legislature the *Uncompensated Health Care Report, Wisconsin Hospitals, Fiscal Year 2002*. The data for this report were collected under section 153.05, Wisconsin Statutes, and are published as authorized by the requirements of section 120.20, Wisconsin Administrative Code.

This report is based on annual hospital uncompensated health care data reported to the Bureau of Health Information by all operating general medical-surgical and specialty hospitals in Wisconsin. The report sets forth the total charges for charity care, bad debt, and total uncompensated health care for fiscal year 2002. It also shows the projected number of patients and the projected charges for charity care, bad debt, and total uncompensated health care in fiscal year 2003.

Sincerely,

HELENE NELSON  
Secretary

**State of Wisconsin  
Department of Administration**

March 15, 2004

The Honorable, The Legislature:

This report is transmitted as required by sec. 20.002(11)(f) of the Wisconsin Statutes, (for distribution to the appropriate standing committees under sec. 13.172(3) Stats.), and confirms that the Department of Administration has found it necessary to exercise the "temporary reallocation of balances" authority provided by this section in order to meet payment responsibilities and cover resulting negative balances during the month of February 2004.

On February 1, 2004, the **Medical Assistance Trust Fund** cash balance closed at a negative \$57.3 million. The negative balance continued until February 9, 2004, when the fund's cash