STATE OF WISCONSIN

Senate Journal

Ninety−Eighth Regular Session

TUESDAY, July 1, 2008

CHIEF CLERK'S ENTRIES

The Chief Clerk makes the following entries dated June 30, 2008.

ADVICE AND CONSENT OF THE SENATE

State of Wisconsin
Office of the Governor

June 9, 2008

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint WETTERSTEN, NANCY, of Madison, as a member of the Public Defender Board, to serve for the term ending May 1, 2011.

Sincerely,
JIM DOYLE
Governor

Read and referred to committee on **Judiciary, Corrections, and Housing.**

REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES

Senate Clearinghouse Rule 08−038

Relating to the "buy local" grant program created under s. 93.48, Stats.

Submitted by Department of Agriculture, Trade and Consumer Protection.

Report received from Agency, June 30, 2008.

Referred to committee on **Agriculture and Higher Education,** June 30, 2008.

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

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Legislative Reference Bureau

July 1, 2008

To the Honorable, the Legislature:

The following rules have been published in the June 30, 2008 Wisconsin Administrative Register No. 630:

Clearinghouse Rule		Effective Date(s)
07−017		7−1−2008
07−061	(part)	7−1−2008
	(part)	7−1−2009
07−062		7−1−2008
07−081		7−1−2008
07−089	(part)	7−1−2008
	(part)	1−1−2009
07−106		7−1−2008
07−114		7−1−2008
07−115		7−1−2008
07−117		7−1−2008
08−002		7−1−2008
08−005		7−1−2008
08−006		7−1−2008
08−015		7−1−2008
08−017		7−1−2008

Sincerely,
BRUCE J. HOESLY
Senior Legislative Attorney/Code Editor

State of Wisconsin
Investment Board

May 15, 2008

To the Honorable, the Legislature:

Attached is our quarterly report listing all expenses that were charged directly to funds managed by the State of Wisconsin Investment Board (SWIB or the Board) during the quarter ending March 31, 2008. Section 25.17 (13m), Stats., requires that we provide this report on a quarterly basis.

The statutes authorize the Board to employ special legal or investment counsel in any matter arising from the scope of our investment authority and to employ professionals, contractors or agents to evaluate or operate any property in which the Board has an interest. The Board may also contract with external advisers to manage various types of investments. Expenses for these services are directly charged to the current income of the fund for which the services were furnished.

This report lists expenses on an accrual basis, which lists costs when they are incurred rather than paid. Providing the information on an accrual basis gives a better picture of quarter to quarter trends in services that are directly charged to the funds. A negative charge typically indicates an adjustment to expenses accrued in a prior quarter or a refund of expenses that were prepaid and subsequently adjusted.

We hope this report gives you a clear picture of expenditures and how funds are managed. Please contact me, however, if you have any questions or comments about the report.

Sincerely,
KEITH BOZARTH
Executive Director

State of Wisconsin
Government Accountability Board

May 27, 2008

The Honorable, The Senate:

The following lobbyists have been authorized to act on behalf of the organizations set opposite their names.

For more detailed information about these lobbyists and organizations and a complete list of organizations and people authorized to lobby the 2007−2008 session of the legislature, visit the Government Accountability Board's web site at http://ethics.state.wi.us/

Hubbard, Gregory	Northwestern Mutual
McIntosh, Forbes	Wisconsin Psychological Association

Also available from the Wisconsin Government Accountability 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 organizations that employ lobbyists.

Sincerely,
KEVIN KENNEDY
Director and General Counsel

State of Wisconsin
University of Wisconsin System

May 29, 2008

To the Honorable, the Legislature:

Section 36.11(22)(2)(b), Wisconsin Statutes, requires the Board of Regents to annually submit a report to the chief clerk of each house of the Legislature on the methods used by each UW System institution to disseminate information to students on sexual assault and sexual harassment.

The law requires UW System institutions to incorporate oral and written information on sexual assault and sexual harassment into their orientation programs for newly entering students, including information on: (1) sexual assault by acquaintances of the victims; (2) the legal definitions and penalties for sexual assault; (3) generally available national, state, and campus statistics on sexual assault; (4) the rights of victims; and (5) protective behaviors including methods of recognizing and avoiding sexual assault and sexual harassment. In addition, each institution must annually supply printed material to all students enrolled in the institution that includes information on all of these topics. This law was enacted in April 1990, and this is the eighteenth report to be compiled for the Legislature since its enactment.

This report summarizes the primary methods used by each institution to comply with s. 36.11(22)(2)(b), Wisconsin Statutes. The summaries are not exhaustive of all efforts underway at the institutions. Instead, they summarize the programs institutions have identified as their "best practices" to respond to victims of sexual assault and provide information about sexual assault and its prevention to all students.

Overall, UW System institutions are (1) continually updating and improving the scope and quality of information provided to students; (2) integrating presentations, small-group discussion of the issues, and interactive dramatizations relating to sexual violence into new student orientation programs; (3) providing the educational and resource information required by s. 36.11(22), Wisconsin Statutes, on the web or in print form; (4) offering educational programs addressing the topic in a wide range of venues, including residence halls, student unions, classrooms, student organization gatherings, and private housing facilities; and (5) establishing effective and important connections among campus Dean of Students staff, residence hall staff, police and security, counseling and health personnel, local police, community service agencies, and regional hospitals to address sexual violence in a coordinated manner.

The attached report is submitted on behalf of the Board of Regents to fulfill our statutory requirements.

If you need additional information regarding this report, please contact Janice Sheppard at jsheppard@uwsa.edu or 608-262-5563.

Sincerely,
KEVIN P. REILLY
President

Referred to committee on **Agriculture and Higher Education**.

State of Wisconsin
Department of Administration

May 30, 2008

The Honorable, The Legislature:

This report is transmitted as required by s. 20.002(11)(f), Wisconsin Statutes, (for distribution to the appropriate standing committees under s. 13.172(3), Wisconsin Statutes) 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 cash balances during the month of April 2008.

On April 1, 2008, the **General Fund** cash balance closed at a negative $303.2 million. This negative balance continued through April 18, 2008, when the fund's cash balance closed at a positive $114.6 million. The **General Fund** cash balance reached its intra month low of a negative $648.4 million on April 10, 2008. The negative balance was due to the difference in the timing of revenues and expenditures.

On April 1, 2008, the **Injured Patients and Families Compensation Fund** cash balance closed at a negative $25.4 million. This negative balance continued through April 30, 2008, when the fund's cash balance closed at a negative $22.9 million. **The Injured Patients and Families Compensation Fund** cash balance reached its intra month low of a negative $25.5 million on April 7, 2008. The negative balance was due to the transfer of $71.5 million to the General Fund pursuant to 2007 Wisconsin Act 20, and the pending liquidation of fund securities necessary to offset this shortfall.

On April 1, 2008, the **Lottery Fund** cash balance closed at a negative $2.2 million. This negative balance continued intermittently through April 25, 2008, when the fund's cash balance closed at a positive $3.0 million. **The Lottery Fund** cash balance reached its intra−month low of a negative $2.6

million on April 3, 2008. The negative balance was due to the difference in the timing of revenues and expenditures.

On April 21, 2008, the **Utility Public Benefits Fund** cash balance closed at a negative $2.8 million. This negative balance continued through April 30, 2008, when the fund's cash balance closed at a negative $4.1 million (its intra−month low). The negative balance was due to the difference in the timing of revenues and expenditures.

The General Fund, Injured Patients and Families Compensation Fund, Lottery Fund, and Utility Public Benefits Fund shortfalls were not in excess of the statutory interfund borrowing limitations and did not exceed the balances of the funds available for interfund borrowing.

The distribution of interest earnings to investment pool participants is based on the average daily balance in the pool and each fund's share. Therefore, the monthly calculation by the State Controller's Office will automatically reflect the use of these temporary reallocations of balance authority, and as a result, the funds requiring the use of the authority will effectively bear the interest cost.

Sincerely,
MICHAEL L. MORGAN
Secretary

Referred to joint committee on **Finance**.

State of Wisconsin
Public Service Commission

June 13, 2008

The Honorable, The Legislature:

The enclosed audit report on Alliant Energy Corporation and its impact on the operations of Wisconsin Power and Light Company was prepared as required by Wis. Stat. 196.795(7)(ar) for distribution to the Legislature under Wis. Stat. 13.172(2)

If you have any questions or comments about the report please contact Ms. Jodee Bartels of the Commission staff and (608) 267−9859.

Sincerely,
SANDRA J. PASKE
Secretary to the Commission

State of Wisconsin
Claims Board

June 16, 2008

The Honorable, The Senate:

Enclosed is the report of the State Claims Board covering heard on May 29, 2008.

Those claims approved for payment pursuant to the provisions of ss. 16.007 and 775.05 Stats., have been paid directly by the Board.

This report is for the information of the Legislature. The Board would appreciate your acceptance and publication of it in the Journal to inform the members of the Legislature.

Sincerely,
CARI ANNE RENLUND
Secretary

STATE OF WISCONSIN CLAIMS BOARD

The State of Wisconsin Claims Board conducted hearings at the State Capitol Building in Madison, Wisconsin, on May 29, 2008, upon the following claims:

Claimant	Agency	Amount
1. Tabatha Blomberg	Revenue	$3,271.84

The following claims were considered and decided without hearings:

Claimant	Agency	Amount
2. Kathleen M. Howe	Agriculture, Trade & Consumer Protection	$785.00
3. Helen Lutes	Revenue	$1,555.80
4. Susan V. Marquenski	Natural Resources	$339.35
5. Michael C. Sacotte	University of Wisconsin	$1,000.00
6. Steven L. Schueler	Corrections	$4,407.70
7. Edward Wilson, Sr.	Corrections	$168.72
8. James Burba	Corrections	$252.00
9. Lee R. Crouthers	Corrections	$132.92
10. Ontario A. Davis	Corrections	$199.40

The following claim, having been previously considered at a hearing on January 24, 2008, was considered and decided without hearing:

11. Jennifer Addis	Health and Family Services	$2,260.00

The Board Finds:

1. **Tabatha Blomberg** of Milwaukee, Wisconsin, claims $3,271.84 for refund of overpayment of sales taxes. The claimant states that she received a notice on August 29, 2007, that the Department of Revenue (DOR) was missing her March 2005 sales tax return. The claimant states that she did not realize the return had not been filed and that the late payment she made in July 2007 was for an estimated March 2005 tax amount, not the actual tax due. The claimant completed the missing return, which showed an income of zero and no taxes due because her business is not open in the winter. She submitted the return on September 2, 2007. The claimant states that the original due date for the return would have been October 7, 2005, and that her September 2, 2007, filing therefore falls within the 2 year statute of limitations. She also points to the fact that she was working actively with DOR for a number of months to correct her tax problems and believes that during that time someone at DOR should have caught the fact that her March 2005 return was missing before she made her July 2007 payment based on an estimated amount.

The Department of Revenue recommends denial of this claim. DOR's records indicate that the claimant has a significant history of filing her sales tax returns late. DOR issued an estimated assessment on August 8, 2005, for failure to file the March 2005 return. DOR records indicate that the assessment was paid in full on July 6, 2007. On August 29, 2007, DOR sent the claimant another request that she file the missing return. The claimant filed the return on September 2, 2007, reporting no sales tax due. DOR states that § 77.59(4)(b), Stats., allows a claim for refund of sales tax to be filed within two years of a tax assessed and then paid. DOR states that the two year statute of limitations expired on August 8, 2007, and DOR has no authority to allow a refund for the claimant's return filed on September 2, 2007.

The Board concludes the claim should be paid in the reduced amount of $1,635.92 based on equitable principles.

The Board further concludes, under authority of § 16.007 (6m), Stats., payment should be made from the Claims Board appropriation § 20.505(4)(d), Stats.

2. Kathleen M. Howe of Wausau, Wisconsin, claims $785.00 for damages related to theft of personal property from a state−owned vehicle. The claimant is a food inspector working for the Department of Agriculture, Trade and Consumer Protection (DATCP). In January 2008, she went on a two night business trip to complete required inspections in her area, which covers 23 counties in northwestern Wisconsin. The claimant was using an assigned state vehicle during the trip. She arrived at the Osseo Super Valu to conduct an inspection and parked her vehicle in the parking lot around 11 AM. Her purse was under the front passenger seat, the state−assigned laptop (in her personal case) was behind the front passenger seat and her personal suitcase was on the back seat. When she returned to the vehicle approximately one hour later, she discovered a window smashed and all of the items stolen. She immediately contacted the Osseo Police Department and filed a report. None of her personal property was recovered. The claimant's bank card was used twice by the thief but her bank reimbursed her for those damages. The claimant's homeowner's insurance has a $1000 deductible and she therefore is not able to recover her losses from her insurer.

The Department of Agriculture, Trade and Consumer Protection has no objection to payment of this claim. DATCP states that the claimant was using a state−owned station wagon during her business trip. DATCP notes that inspectors are sometimes assigned station wagons in order to carry a variety of items used for inspections. DATCP states that inspectors leave their personal items in the vehicle during inspections because businesses are not expected to provide space for an inspector's personal items. DATCP states that, although the department was not intentionally or negligently responsible for the incident, neither was the claimant. DATCP therefore has no objection to reimbursing claimant for the amount requested.

The Board concludes the claim should be paid in the amount of $785.00 based on equitable principles. The Board further concludes, under authority of § 16.007 (6m), Stats., payment should be made from the Department of Agriculture, Trade and Consumer Protection appropriation § 20.115(1)(gb), Stats.

3. Helen Lutes of Tomahawk, Wisconsin claims $1,555.80 for money taken from the claimant's bank account by the Department of Revenue (DOR) relating to a Homestead Tax Credit. In May 2001, DOR issued an assessment stating that the claimant was not eligible for the Homestead Tax Credit she claimed on her 1997 taxes. She appealed the assessment but was denied. The claimant also appealed a similar adjustment to her 1998 taxes but that was also denied. The claimant states that she is a widow and that when her son was killed in 1996, she had his funeral taxes on her house. She alleges that DOR staff harassed her and took money from her account without notice. She further alleges that she could not apply for the federal stimulus rebate because DOR would seize that as well. The clamant believes that she is eligible for the Homestead Tax Credit and that DOR has wrongly taken money from her account.

The Department of Revenue recommends denial of this claim. DOR states that the claimant's 1997 Homestead Tax Credit claim was completed without including her Social Security income. She received a credit of $828. However, when the claimant's Social Security income is included; her total household income exceeds the threshold for Homestead Credit eligibility. DOR issued an assessment in March 2001 for return of the credit and also made a similar adjustment to the claimant's 1998 Homestead Tax Credit Claim. The claimant appealed both determinations and the Wisconsin Tax Appeals Commission upheld the denial of the credit for both tax years. DOR notes that the claimant has not filed a Homestead Tax Credit claim since 1998. DOR states that over the past seven years, it has written numerous letters of explanation to the claimant and also actively pursued collection of the assessment by intercepting the claimant's federal tax refunds. DOR states that it has not collected an excessive amount from the claimant on this liability and recommends denial of this claim.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

4. Susan V. Marcquenski of Madison, Wisconsin, claims $339.35 for vehicle damage related to a series of catalytic converter thefts in the Madison area. The claimant, a Department of Natural Resources (DNR) employee, has a state−owned minivan that is assigned to her for her fish health work. When she needs to use the minivan, her personal vehicle is parked at the Science Operations Center. It is sometimes necessary for the claimant to take the minivan home for overnight trips or trips that require an early start to a destination in the opposite direction from the lab. The claimant states that this was the case on September 28, 2007, when she left her personal vehicle parked at the lab and took the minivan home so that she could drive to a seminar in Illinois early on Saturday morning. Approximately 27 vehicles along Progress Road had their catalytic converters stolen late on September 28th or early September 29th, including several trucks at a neighboring business, 4−5 state−owned vehicles and 3 personal vehicles in the Science Center parking lot. The claimant's vehicle was one of the vehicles damaged. She requests reimbursement for the cost to repair her vehicle.

The Department of Natural Resources recommends payment of this claim. Although the department does not normally recommend payment for damaged employee personal property, DNR feels that circumstances in this case warrant making an exception to that policy. DNR notes that, but for the claimant's need to use the state minivan for her business trip, her vehicle never would have been damaged. DNR also believes that it is a reasonable assumption that if the state−owned minivan had been in the parking lot, its converter would have been stolen instead of the claimant's and the DNR would have incurred a loss either way. The DNR believes that both equity and the unique circumstances of this situation warrant reimbursing the claimant for the cost of replacing her converter.

The Board concludes the claim should be paid in the amount of $339.35 based on equitable principles. The Board further concludes, under authority of § 16.007 (6m), Stats., payment should be made from the Department of Natural Resources appropriation § 20.370(4)(mu), Stats.

5. Michael C. Sacotte of Racine, Wisconsin, claims $1,000.00 for money allegedly stolen during a basketball game at the University of Wisconsin−Parkside (UWP). On December 6, 2007, the claimant officiated a high school girls' basketball game at UWP. The claimant left his personal clothing and wallet in the changing area designated for officials. The claimant states that after he showered and changed, he realized that his credit card and money were missing from his

wallet. Another individual using the room discovered a jacket and money missing. A police report was filed but the claimant's money was not recovered. The claimant states that he was never informed that the changing area would be unlocked during the game. The claimant states that the game manager later told him that when there were multiple games, they did not lock the changing area. The claimant believes that it was UWP's responsibility to at least monitor the room to make sure no unauthorized individuals had access to the area. The claimant requests reimbursement for his stolen money.

The University of Wisconsin recommends denial of this claim. The locker room that UWP made available to officials for the high school games is primarily for use by UWP faculty and staff using the recreational facilities. The room is not ordinarily locked during the hours the facility is open so that faculty and staff have access to it. The lockers in the room were unlocked. The UW points to the fact that the claimant could have supplied his own lock to secure his belongings or he could have asked the staff for a lock, but he did not. The UW does not believe that it was reasonable for the claimant to leave a large sum of cash in an unlocked locker and expect UWP to secure it for him. UWP allows high schools to use the recreational facility but does not agree to provide security for those games and has no relationship with the claimant or other game referees. It would not be appropriate for UWP to lock the room and prevent access to the area by faculty and staff. Finally, the UW notes that, according to the UWP Athletic Director, it is common practice for high school referees to leave their valuables locked in their cars during games.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

6. Steven L. Schueler of Markesan, Wisconsin, claims $4,407.70 for reimbursement of legal fees incurred in defense of a criminal charge arising from the performance of his duties as an employee at Waupun Correctional Institution. The claimant conducted an investigation related to the discovery of contraband material in the cell of inmate Jason Procknow. Mr. Procknow later filed a complaint against the claimant alleging that the claimant physically assaulted him during the investigation. Judge Andrew Bissonnet, sitting as a John Doe judge, charged the claimant with violating § 940.29, Stats., (abuse of residents of penal facilities). The claimant states that the proof necessary in a John Doe proceeding is very low—a "reason to believe" standard, which is lower than probably cause. The claimant also points to the fact that § 968.26, Stats., which governs John Doe proceedings, does not allow the judge to consider investigative reports that cast doubt on the allegations. The claimant states that Mr. Procknow has a long history of lying and manipulative behavior. An internal investigation conducted by the security director of another institution found factual inconsistencies in Mr. Procknow's statements and no evidence supporting his allegations of abuse. The special prosecutor assigned to the case was able to evaluate elements not considered by the judge such as witness statements and Mr. Procknow's credibility. The prosecutor filed a motion to dismiss the charges based on the lack of evidence supporting the allegations and Mr. Procknow's credibility problems. The motion to dismiss and the claimant's request that the charges be expunged were both granted. The claimant states that these charges were directly related to the exercise of his lawful duties as a state employee. The claimant believes that his attorney's fees are reasonable and requests reimbursement of the $200 he has paid, plus the remaining balance of $4,207.07, pursuant to § 16.007(5) and 775.11, Stats.

The Department of Corrections supports payment of this claim. The Department does not dispute the facts as presented by the claimant and agrees that the claim is appropriate to pay pursuant to § 775.11, Stats., that the duties performed by the claimant were those expected of an employee, and that the attorney's fees are reasonable.

The Board concludes the claim should be paid in the amount of $4,407.70 pursuant to § 775.11, Stats. The Board further concludes, under authority of § 16.007 (6m), Stats., payment should be made from the Department of Corrections appropriation § 20.410(1)(a), Stats.

7. Edward Wilson, Sr. of Boscobel, Wisconsin, claims $168.72 for value of property allegedly damaged by Department of Corrections (DOC) staff. The claimant was transferred to the Wisconsin Secure Program Facility (WSPF) on May 25, 2007. The claimant's property was inventoried by WSPF on May 29, 2007. The clamant states that at WSPF there are no electrical outlets inside the cells but inmates are allowed to plug two electronics into the outlet outside the cell. If an inmate has an extension cord, he is allowed to plug in more than two electronics. The claimant states that he did not have an extension cord when he arrived at WSPF and was therefore not able to check whether his typewriter and razor were in working condition when he received his property. The claimant states that he ordered an extension cord, but that the order was delayed pending transfer of his money from Waupun Correctional Institution. The claimant states that as soon as he received his extension cord, he plugged in his typewriter and razor and discovered that they did not work. He immediately filed an Offender Complaint, but his complaint was denied because it was not filed within 14 days of his receipt of his property. The claimant asserts that he was not able to make this deadline because he had no way to test whether or not his property worked until he received his extension cord. The claimant also believes that DOC staff did not test his typewriter and razor when they inventoried his property as required by DOC procedures. The claimant alleges that his property was working when he left Waupun and that it must have been damaged by DOC staff.

The Department of Corrections recommends denial of this claim. DOC points to the fact that the Division of Adult Institutions policy requires staff to plug in electronic equipment to ensure that it is in working order before giving it to the inmate because inmates are not allowed to possess damaged property. If the claimant's typewriter and razor had not worked, they would not have been given to the claimant with his other property. Furthermore, DOC states that the claimant could have requested that staff plug in his typewriter and razor after he received the property. Inmates without extension cords may only have two items plugged in at a time, but they may request that staff plug in different items. The claimant did not have to wait until receiving his extension cord before plugging in the typewriter and razor. DOC rules state that Offender Complaints must be filed within 14 days of the incident giving rise to the complaint. The claimant's Offender Complaint was filed almost a month after he received his property and was rejected as untimely. Finally, DOC points to the fact that the property in question was in the claimant's possession and under his control for almost a month and there is therefore no way to prove when any damage occurred.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. James Burba of Portage, Wisconsin, claims $252.00 for a filing fee and associated costs related to a writ of certiorari he filed. The claimant states that in February 2004, while an inmate at the Wisconsin Secure Program Facility (WSPF), he requested a copy of the Grant County Directory from the Grant County Clerk. The claimant states that Grant County sent him the directory, but that WSPF did not allow him to have it. The claimant pursued appeals with WSPF and through the Inmate Complaint Program, but the denial of the directory was upheld. In June 2004, the claimant filed a writ of certiorari in Dane County Circuit Court. The court ruled that the claimant should be allowed access to the directory. The claimant requests reimbursement of his $152 filing fee and approximately $100 in supplies allegedly used in filing the action (paper, typewriter ribbons, photocopies, etc.). The claimant rejects the department's argument that, pursuant to § 814.25(2), Stats., he is not entitled to recovery of these costs because his action was related to prison conditions and he did not receive injunctive relief against the defendants. The claimant alleges that his writ of certiorari was based on the defendant violating his constitutional right of access to the courts and that the action had nothing to do with prison conditions. The claimant further alleges that the Court's decision was, in point of fact, prospective injunctive relief against the defendant for violating the claimant's constitutional rights. The claimant alleges that the department is misrepresenting the nature of his court action and requests reimbursement for his costs.

The Department of Corrections (DOC) recommends denial of this claim. It is DOC's position that the claimant is not entitled to recover costs or fees associated with the filing of his writ of certiorari. DOC points to § 814.25(2), Stats., which provides that no costs are allowed for actions relating to prison or jail conditions and that, although costs are allowed when a prisoner obtains prospective injunctive relief against a defendant, costs are not allowed for actions "related to prison or jail conditions that seek a remedy available by certiorari." DOC believes that Judge Foust did not grant prospective injunctive relief in the claimant's case but instead, simply ruled that the claimant was entitled to receive a copy of the directory he had requested. The claimant has received that directory and the department does not believe that he is entitled to any further relief based on the court's Decision.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

9. Lee R. Crouthers of Stanley, Wisconsin, claims $132.92 for damage to a typewriter allegedly caused by Department of Corrections (DOC) staff. The claimant, an inmate at Stanley Correctional Institution, was placed in temporary lock up (TLU) on July 25, 2007, pending an investigation. The claimant states that when he went into TLU, his personal property was packed up and inventoried by DOC staff. The claimant states that his typewriter was working before he was placed in TLU. After the claimant was released from TLU, his property was returned and he discovered that his typewriter no longer worked. The claimant alleges that other inmates have told him that they saw DOC staff drop his typewriter when packing up his property. The claimant filed an inmate complaint regarding the damage to his typewriter but it was denied. He requests reimbursement for the cost of the typewriter.

The Department of Corrections recommends denial of this claim. When the claimant was placed in TLU, his property was packed up by institution staff and no damage was noted. DOC points to the fact that the claimant did not note any damage to his typewriter when he signed to receive his property back on August 8, 2007. In fact, the claimant did not file a complaint regarding the typewriter until August 19th, almost two weeks later. DOC also points to the fact that the claimant never appealed the dismissal of his complaint. Finally, DOC states that the claimant has provided no evidence that the damage to his typewriter occurred due to staff negligence or while under staff control.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

10. Ontario A. Davis of Boscobel, Wisconsin, claims $199.40 for the value of property allegedly lost by the Department of Corrections (DOC). In February 2007, the claimant was transferred from Green Bay Correctional Institution (GBCI) to the Wisconsin Secure Program Facility (WSPF). The claimant did not receive his property at WSPF until May 11, 2007, at which time he noticed that many items were missing from his property. The claimant states that he filed a complaint regarding his missing property and appealed DOC's decision, which only reimbursed him for one pair of underwear. The claimant denies DOC's assertion that he could have sold, traded or given away his property. He points to the fact that this would be a violation of DOC rules and that he would have been charged with that violation if DOC truly suspected him of doing so. The claimant states that GBCI allows inmate workers to pack up other inmates' property while unsupervised and that it would therefore be easy for these workers to steal property from other inmates. Finally, the claimant points to the fact that his missing fan was purchased from the GBCI canteen yet was not noted on his GBCI inventory form. The claimant believes this is evidence that DOC is remiss in inventorying inmate property.

The Department of Corrections recommends denial of this claim. The claimant's Offender Complaint was reviewed by DOC. The Inmate Complaint Examiner found that, with the exception of one pair of underwear for which the claimant was reimbursed, there was no evidence that DOC was responsible for the alleged loss of any additional property. This decision was upheld upon review by both the institution Warden and the Correctional Complaint Examiner. At all levels of review, it was found that the claimant had provided no evidence that showed the missing items were in his cell when he was transferred or that the property was lost due to DOC staff negligence or while under staff control. DOC points to the fact that at any time, the claimant could have traded, sold or given away his property and the fact that he was not issued a conduct report is not proof that he did not do so.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is

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

11. Jennifer Addis of Hancock, Wisconsin claims $2,260.00 reimbursement for out−of−pocket cost of a wheelchair seat not covered by Wisconsin Medicaid. This claim was previously considered at Hearing on January 24, 2008. At that time, the Board deferred decision on the claim and referred the claim to the Division of Hearings and Appeals. The Board specifically requested that the Hearing Examiner determine whether the power adjustable seat, as used by the claimant, is medically necessary and "contributes to the improvement of (her) medical condition" rather than being an item "for comfort and convenience" and, ultimately, whether or not the seat is covered by Medicaid.

The Hearing Examiner submits a Proposed Decision to the board finding that the power adjustable seat is not covered by Medicaid.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is neither one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

The Board concludes:

That the claims of the following claimants should be denied:

Helen Lutes
Michael C. Sacotte
Edward Wilson, Sr.
James Burba
Lee R. Crouthers
Ontario Davis
Jennifer Addis

That payment of the following amounts to the following claimants from the following statutory appropriations is justified under s. 16.007, Stats:

Tabatha Blomberg	$1,635.92	§ 20.505(4)(d), Stats.
Kathleen M. Howe	$785.00	§ 20.115(1)(gb), Stats.
Susan V. Marcquenski	$339.35	§ 20.370(4)(mu), Stats.
Steven L. Schueler	$4,407.70	§ 20.410(1)(a), Stats.

Dated at Madison, Wisconsin this 13th day of June, 2008.

ROBERT HUNTER, Chair
Representative of the Attorney General

CARI ANNE RENLUND, Secretary
Representative of the Secretary of Administration

NATE ZOLIK
Representative of the Governor

MARK MILLER
Senate Finance Committee

JEFFREY STONE
Assembly Finance Committee

State of Wisconsin
Department of Administration

June 19, 2008

The Honorable, The Legislature:

Included with this correspondence, I am submitting the reports from the Department of Administration., Division of Gaming (Gaming), for the first, second and third quarters of fiscal year 2008 (July 1, 2007 through September 30, 2207; October 1, 2007 through December 31, 2007 and January 1, 2008 through March 31, 2008, respectively). As required by s562.02(1)(g), Wis. Stats., the attached materials contain pari−mutuel wagering and racing statistical information, as well as the revenues for the program areas of Racing, Charitable Gaming, Bingo and Indian Gaming.

If you have any questions or comments regarding this report, please do not hesitate to contact Rachel Meek at (608) 270−2535.

Sincerely,
ROBERT W. SLOEY
Administrator

WHA Information Center
Madison

June 24, 2008

The Honorable, The Senate:

Enclosed is a hard copy of the *Uncompensated Health Care Report − FY 2006* produced by WHA Information Center pursuant to s.153.22, Wis. Stats. The report was posted on our Web site in March 2008. Please feel free to download and print additional copies.

If you have any questions regarding the report you may contact me at 608−274−1820, 800−231−8340 or jkachelski@wha.org.

Sincerely,
JOSEPH KACHELSKI
Vice President

WHA Information Center
Madison

June 24, 2008

The Honorable, The Senate:

Enclosed is a hard copy of the *Wisconsin Inpatient Hospital Quality Indicators Report* produced by WHA Information Center pursuant to s.153.22, Wis. Stats. The report was posted on our Web site in March 2008. Please feel free to download and print additional copies.

If you have any questions regarding the report you may contact me at 608−274−1820, 800−231−8340 or jkachelski@wha.org.

Sincerely,
JOSEPH KACHELSKI
Vice President

WHA Information Center
Madison

June 24, 2008

The Honorable, The Senate:

Enclosed is a hard copy of the *2006 Health Care Data Report* produced by WHA Information Center pursuant to s.153.22, Wis. Stats. The report was posted on our Web site in March 2008. Please feel free to download and print additional copies.

If you have any questions regarding the report you may contact me at 608−274−1820, 800−231−8340 or jkachelski@wha.org.

Sincerely,
JOSEPH KACHELSKI
Vice President

WHA Information Center
Madison

June 24, 2008

The Honorable, The Senate:

Enclosed is a hard copy of the *Guide to Wisconsin Hospitals Fiscal Year 2006* produced by WHA Information Center pursuant to s.153.22, Wis. Stats. The report was posted on our Web site in March 2008. Please feel free to download and print additional copies.

If you have any questions regarding the report you may contact me at 608−274−1820, 800−231−8340 or jkachelski@wha.org.

Sincerely,
JOSEPH KACHELSKI
Vice President

ADVICE AND CONSENT OF THE SENATE

State of Wisconsin
Department of Public Instruction

June 30, 2008

The Honorable, The Senate:

Pursuant to s. 15.377(8), Wis. Stats., enclosed please find a list of nominees to the Professional Standards Council for Teachers. These individuals were selected based upon organizational recommendations as prescribed in statute. Your confirmation of the appointees is requested.

BITTER, ALAN, of Manitowoc, as a member of the Professional Standards Council for Teachers, for the term ending June 30, 2011.

Read and referred to committee on **Education.**

MCCABE, JEFF, of Madison, as a member of the Professional Standards Council for Teachers, for the term ending June 30, 2009.

Read and referred to committee on **Education.**

Sincerely,
ELIZABETH BURMASTER
State Superintendent

REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES

The committee on **Health, Human Services, Insurance, and Job Creation** reports and recommends:

Senate Clearinghouse Rule 07−108

Relating to sales of life insurance and annuities to the military and affecting small business.

No action taken.

JON ERPENBACH
Chairperson