

STATE OF WISCONSIN

Senate Journal

One-Hundred and Third Regular Session

THURSDAY, March 1, 2018

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

REPORT OF COMMITTEES

The committee on **Natural Resources and Energy** reported and recommended:

Senate Bill 733

Relating to: changes to the electronic waste recycling program and granting rule-making authority.

Senate Amendment 1 adoption.

Ayes: 5 - Senators Cowles, Petrowski, Olsen, Miller and Hansen.

Noes: 0 - None.

Passage as amended.

Ayes: 5 - Senators Cowles, Petrowski, Olsen, Miller and Hansen.

Noes: 0 - None.

Senate Bill 747

Relating to: shoreline maintenance in outlying waters.

Passage.

Ayes: 5 - Senators Cowles, Petrowski, Olsen, Miller and Hansen.

Noes: 0 - None.

Senate Bill 789

Relating to: an exemption from permit requirements for certain riparian owners who remove material from the bed of a navigable water.

Senate Substitute Amendment 1 adoption.

Ayes: 5 - Senators Cowles, Petrowski, Olsen, Miller and Hansen.

Noes: 0 - None.

Passage as amended.

Ayes: 4 - Senators Cowles, Petrowski, Olsen and Hansen.
Noes: 1 - Senator Miller.

Senate Bill 792

Relating to: iron or steel slag managed as an item of value.

Senate Amendment 1 adoption.

Ayes: 5 - Senators Cowles, Petrowski, Olsen, Miller and Hansen.

Noes: 0 - None.

Passage as amended.

Ayes: 3 - Senators Cowles, Petrowski and Olsen.

Noes: 2 - Senators Miller and Hansen.

Senate Bill 796

Relating to: producer led watershed protection grants and transferring moneys within the environmental fund.

Passage.

Ayes: 5 - Senators Cowles, Petrowski, Olsen, Miller and Hansen.

Noes: 0 - None.

ROBERT COWLES

Chairperson

The committee on **Public Benefits, Licensing and State-Federal Relations** reported and recommended:

Assembly Bill 602

Relating to: marriage license application requirements, issuance, and validity.

Concurrence.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Assembly Bill 752

Relating to: applications for alcohol beverage licenses and permits and for cigarette and tobacco products retailer licenses, appointment of corporate agents of alcohol beverage licensees and permittees, and providing a penalty.

Concurrence.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Senate Bill 533

Relating to: delegation of the practice of pharmacy and granting rule-making authority.

Passage.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Senate Bill 731

Relating to: the score required for successful completion of chiropractic examinations.

Senate Amendment 1 adoption.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Passage as amended.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Senate Bill 748

Relating to: commercial building code administration; county authority regarding certain buildings and safety requirements; carbon monoxide detection in commercial residential buildings; examination requirements for marriage and family therapy, professional counseling, and social work credentials; social worker training certificate term; and granting rule-making authority.

Senate Amendment 1 adoption.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Senate Amendment 2 adoption.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Passage as amended.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Senate Bill 749

Relating to: various changes to statutes administered by the Department of Safety and Professional Services and attached credentialing boards and requiring the exercise of rule-making authority.

Passage.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Senate Bill 750

Relating to: wholesale distributors subject to Pharmacy Examining Board requirements and enforcement and disciplinary authority of the Department of Safety and Professional Services and attached boards and credentialing boards.

Passage.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Senate Bill 751

Relating to: various changes to statutes administered by the Department of Safety and Professional Services and attached credentialing boards.

Senate Amendment 1 adoption.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

Passage as amended.

Ayes: 5 - Senators Kapenga, Olsen, Craig, Johnson and Vinehout.

Noes: 0 - None.

CHRIS KAPENGA

Chairperson

PETITIONS AND COMMUNICATIONS

Pursuant to Senate Rule 17 (5), Senator Risser added as a co-author of **Senate Bill 741**.

Pursuant to Wis. Stats. 13.172 (2) and (3), attached is the list of agency reports received from executive branch and legislative service agencies for the month of February, 2018.

Department of Corrections

Number of inmates DOC considers to be violent and total number of inmates

Pursuant to 301.03 (6r), Wis. Stats.

Received on February 1, 2018.

Referred to the committee on **Judiciary and Public Safety**.

Department of Corrections

Summary of Inmate Statistics Involving Mental Health Transfers and Services

Pursuant to 301.03 (6m), Wis. Stats.

Received on February 1, 2018.

Referred to the committee on **Judiciary and Public Safety**.

Department of Financial Institutions

2017 Annual Payday Lending Report

Pursuant to 138.14 (7)(e), Wis. Stats.

Received on February 1, 2018.

Referred to the committee on **Revenue, Financial Institutions and Rural Issues**.

Wisconsin Ethics Commission

Lobbyist Update

Pursuant to 13.685 (7), Wis. Stats.

Received on February 6, 2018.

Legislative Audit Bureau

University of Wisconsin System

Pursuant to 13.94 (1)(t), Wis. Stats.

Received on February 6, 2018.

Department of Children and Families

Summary Reports

Pursuant to 48.981 (7)(cr)3.b., Wis. Stats.

Received on February 7, 2018.

Referred to the committee on **Health and Human Services**.

Green Bay Area School District

2016-17 Charter School Authorizer Annual Report

Pursuant to 118.40 (3m)(f), Wis. Stats.

Received on February 9, 2018.

Wisconsin Ethics Commission
Lobbyist Update
 Pursuant to 13.685 (7), Wis. Stats.
 Received on February 13, 2018.

Butternut School District
2016-17 Charter School Authorizer Annual Report
 Pursuant to 118.40 (3m)(f), Wis. Stats.
 Received on February 14, 2018.

Legislative Audit Bureau
State of Wisconsin
 Received on February 14, 2018.

Neenah Joint School District
2016-17 Charter School Authorizer Annual Report
 Pursuant to 118.40 (3m)(f), Wis. Stats.
 Received on February 14, 2018.

Department of Administration
FY17 Wisconsin Supplier Diversity Report
 Pursuant to 16.75 (3m)(c)4 Wis. Stats.
 Received on February 14, 2018.
 Referred to the committee on **Government Operations, Technology and Consumer Protection.**

Department of Administration
FY17 State of Wisconsin Contractual Services Purchasing Report
 Pursuant to 16.705 (8), Wis. Stats.
 Received on February 20, 2018.
 Referred to the committee on **Government Operations, Technology and Consumer Protection.**

Wisconsin Ethics Commission
Lobbyist Update
 Pursuant to 13.685 (7), Wis. Stats.
 Received on February 20, 2018.

Wisconsin Ethics Commission
Lobbyist Update
 Pursuant to 13.685 (7), Wis. Stats.
 Received on February 27, 2018.

State of Wisconsin Claims Board
Report Covering Claims Heard on February 7, 2018
 Pursuant to 16.007 and 775.05, Wis. Stats.
 Received on February 28, 2018.

Department of Children and Families
Summary Reports
 Pursuant to 48.981 (7)(cr)3.b., Wis. Stats.
 Received on February 27, 2018.
 Referred to the committee on **Health and Human Services.**

Department of Workforce Development
2016 Annual Report Regarding the Administration and Enforcement of Wis. Stats. 109.07 and 109.075
 Pursuant to 109.12 (2) and (3), Wis. Stats.
 Received on February 28, 2018.
 Referred to the committee on **Labor and Regulatory Reform.**

Department of Administration
Temporary Reallocation of Balances

Pursuant 20.002 (11)(f), Wis. Stats.
 Received on February 28, 2018.
 Referred to the joint committee on **Finance.**

Department of Financial Services
Office of Credit Unions Annual Report
 Pursuant to 186.235 (12), Wis. Stats.
 Received on February 28, 2018.

Marshall Public Schools
2016-17 Charter School Authorizer Annual Report
 Pursuant to 118.40 (3m)(f), Wis. Stats.
 Received on February 28, 2018.

**State of Wisconsin
 Claims Board**

February 27, 2018

Enclosed is the report of the State Claims Board covering the claims heard on February 7, 2018. Those claims approved for payment pursuant to the provisions of s.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,
GREGORY D. MURRAY
 Secretary

STATE OF WISCONSIN CLAIMS BOARD
The State of Wisconsin Claims Board conducted hearings at the State Capitol Building in Madison, Wisconsin, on February 7, 2018, upon the following claims:

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
1. Kurt & Barbara Zipp	Revenue	\$4,624.80
2. Shanquil Bey	Children & Families	\$163,691.53

The following claims were decided without hearings:

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
3. Jay Callahan	Natural Resources	\$8,630.90
4. Penny Schofield	Transportation	\$1,400.00
5. Randy Alexander	Corrections	\$167.44
6. Vance Hernandez-Smith	Corrections	\$247.00
7. Corey J. Frederiksen	Corrections	\$99.85
8. Wade A. Strassburg	Corrections	\$1,320.00
9. Terrance J. Shaw	Corrections	\$400.15
10. Donovan Crowe	Corrections	\$257.60

The Board Finds:

1. Kurt & Barb Zipp of Darien, Wisconsin claim \$4,624.80 for interest charged on a Department of Revenue income tax assessment. The IRS adjusted claimants' 2008 and 2009 federal income tax returns. Claimants did not dispute the adjustment. Claimants allege that they were told by the IRS that they did not need to contact DOR but that the

IRS would do so and DOR would contact claimants if any Wisconsin tax assessments were issued. Claimants' tax preparer also told them to wait until they were contacted by DOR. DOR issued an assessment on their adjusted 2008 and 2009 returns eleven days short of the 4-year statute of limitations on the assessment. Claimants do not dispute the amount of tax assessed, however, DOR added 12% interest. Because it took DOR so long to issue the assessment, the interest charged was nearly 40% of the total amount assessed. Claimants filed a Petition for Redetermination with DOR but was told the agency did not have authority to reduce the interest. They then filed a Petition for Review with the Tax Appeals Commission, but the Commission also told them it did not have authority to reduce the interest amount. Claimants believe the amount of interest charged is excessive. They note that the IRS reduced their interest due to 3%. They request reimbursement of the interest amount charged by DOR.

DOR recommends denial of this claim. Claimants underreported their 2008 and 2009 income by over \$100,000 each year. Section 71.76, Stats., requires taxpayers to file amended Wisconsin returns upon finalization of their IRS audit. Claimants failed to do so. The IRS notified DOR of the audit in July 2011. Section 77.77(7)(b), Stats., provides a four-year statute of limitations for DOR to make assessments based on IRS adjustments. DOR had been receiving 35,000 to 55,000 federal audit reports each year. At the time DOR received notification of the claimants' adjustment, the department was actively seeking legislative approval of additional staff to address a backlog of IRS audit determinations. Despite this backlog, DOR issued claimants' assessment within the four-year statute of limitations. The 12% interest charged is a statutorily mandated amount, which DOR has no authority to reduce. DOR notes that the interest could have been avoided altogether if claimants had not underreported their income or had promptly notified DOR of the audit adjustment as required by § 71.76, Stats. DOR believes there has been no showing of negligence on the part of the state and that there is no equitable basis for payment of this claim.

The Board finds that although DOR faced a unique situation causing a backlog in processing federal audits, the time it took to process claimants' audit was excessive. The Board encourages DOR to improve its communications with taxpayers when the department receives information from the IRS. The Board concludes the claim should be paid in the reduced amount of \$2,312.40, representing half of the interest paid by claimants, based on equitable principles. The Board further concludes, under authority of § 16.007(6m), Stats., payment should be made from the Department of Revenue appropriation § 20.566(1)(a), Stats.

2. Shanquil Bey of Milwaukee, Wisconsin claims \$163,691.53 for monies allegedly owed to her licensed child care center. Claimant's center cared for children whose care was subsidized by the Wisconsin Shares program. On August 20, 2010, the Department of Children and Families suspended Wisconsin Shares payments to claimant's child care center. Claimant states that she was one of 35 child care

centers which were "raided" in the Milwaukee area due to media coverage about child care fraud. She states that she was suspended based on "red flags" in DCF's system, not due to any finding or evidence of guilt. Claimant appealed that suspension to Milwaukee County Circuit Court. The court found that DCF violated claimant's due process rights and ordered DCF to issue payments to her for any child care previously provided and to resume Wisconsin Shares payments. Claimant alleges that DCF has failed to make the payments ordered by the court. She alleges that the two checks issued by DCF in March 2011 were for care provided prior to August 20, 2010. She also alleges that DCF underpaid her for child care provided prior to her suspension. She alleges that DCF is in contempt of the court order. She requests \$103,355.17 for underpayments and \$60,336.36 for unpaid child care from October through December 2010.

DCF recommends denial of this claim. DCF notes that the court directed DCF to issue payments to claimant for any *eligible* care previously provided and to resume Wisconsin Shares payments for any *eligible* care. DCF did pay claimant for eligible care she previously provided. DCF issued checks on March 24, 2011, in the amounts of \$5,023.45 and \$2,861.36. DCF believes claimant has submitted no evidence supporting her allegation of underpayment. DCF notes that claimant has pursued her claim for additional money in a variety of forums. DCF believes her claims are without merit and should be denied.

The Board defers decision of this claim at this time so that it may obtain additional information from both claimant and DCF.

3. Jay Callahan of Rhinelander, Wisconsin claims \$8,630.90 for vehicle damage allegedly incurred due to a defective Department of Natural Resources boat landing at Spider Lake in Oneida County, Wisconsin. On April 25, 2017, claimant used the boat landing to launch his new boat. He backed his boat trailer to the end of the ramp, where there were two cement slabs stacked on top of each other. He states that the boat came off the trailer without difficulty. He was kneeling on the dock facing away from the lake when the boat trailer backed down an approximately 6-foot deep hole at the end of the ramp. He states that the tongue of the trailer acted as a lever and pulled his vehicle into the lake. Claimant alleges that his vehicle was turned off, the transmission was in "park," and the emergency brake was on when this incident occurred. Claimant notes that the boat landing was fixed the same day as this incident. Claimant only had liability insurance coverage for his vehicle. He requests reimbursement for towing costs, repair costs, and the cost of replacing his vehicle when it was eventually determined not to be repairable.

DNR recommends denial of this claim. DNR staff became aware of repairs needed at the Spider Lake boat landing on April 19, 2017. The repairs could not be done immediately, because heavy equipment was needed to move 700 lb. planks. DNR did not close the ramp or post warnings, because the defects were clearly visible, and most boaters would still be able to effectively use the landing. Repairs to the landing were conducted on April 25, 2017. DNR believes

it is highly improbable that an empty boat trailer could have pulled a 3,600-lb. vehicle, allegedly in “park” with the emergency brake engaged, from a dead stop, over a 4-inch high plank and out into the lake. DNR notes that if the vehicle had been in “park” the front wheels would have been locked, and unable to roll down the ramp. DNR proposes a more likely explanation of how this event occurred. Claimant intentionally or accidentally left his vehicle in neutral or reverse. The stacked planks at the end of the ramp acted as a chock-block for the trailer’s wheels, preventing the trailer from rolling down the ramp. When the boat was launched, the weight on the trailer decreased, releasing the tension holding the trailer’s wheels against the planks. The trailer wheels rolled over the stacked planks and pulled the vehicle into the lake. DNR notes that claimant has provided no explanation of how the condition of the landing caused this incident. DNR also points to the recreational immunity statute, § 895.52(2), (4), Stats., which prevents claims against the state absent some malicious intent. Finally, DNR believes that if the board determines payment should be made, such payment should be limited to the cost of the tow and the fair-market value of claimant’s destroyed vehicle. DNR would therefore request any payment be limited to \$3,434.

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. Penny Schofield of Blue River, Wisconsin claims \$1,400.00 for cost of a vehicle allegedly totaled in an accident on October 15, 2017. Claimant alleges she hit a deer while driving on Hwy. 133 in Grant County between Blue River and Boscobel. She claims she did not see the deer because of high weeds on the side of the roadway. The vehicle was a 2001 Buick Century for which she paid \$1,400. Claimant states that her repair shop told her the repair cost would be more than the vehicle is worth. She only carried liability insurance on the vehicle. She requests reimbursement for the cost of the vehicle.

The Department of Transportation recommends denial of this claim. DOT has a Routine Maintenance Agreement with Grant County for maintenance of the state roads in that county. Claimant should pursue her claim with Grant County. There has been no negligence on the part of the state.

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.

5. Randy Alexander of Green Bay, Wisconsin claims \$167.44 for full replacement value of a television broken by Department of Corrections staff. Claimant is an inmate at Green Bay Correctional Institution (GBCI). In May 2017, he received his property from GBCI storage and noticed his television was no longer working. He filed an inmate complaint and DOC determined the television was damaged while under staff control. However, claimant was only

reimbursed \$59, the depreciated value of the TV. Claimant does not believe DOC’s reimbursement is fair because DOC requires inmates to pay the full purchase price when they damage institution TVs. Claimant states that the purchase price of the TV was \$167.44. He believes DOC should cover the cost of repairing his TV, reimburse him for the full value of the TV, or provide him with an institution TV as a replacement.

DOC recommends denial of this claim. Claimant has been reimbursed pursuant to DOC’s depreciation schedule for property reimbursement. DOC policy DAI 310.00.03 permits institutions to either repair or replace broken items. In this case, DOC reimbursed claimant so he could replace the television. DOC believes claimant has been properly reimbursed for his television and should not be reimbursed again by the Claims Board.

The Board concludes the claim should be paid in the reduced amount of \$108.44, the purchase price of the television minus the amount already reimbursed by DOC, based on equitable principles. 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.

6. Vance Hernandez-Smith of Stanley, Wisconsin claims \$247.00 for damage to a typewriter allegedly caused by the actions of Department of Corrections staff. Claimant is an inmate at Stanley Correctional Institution. In October 2016, he gave his typewriter to the property sergeant to pack and ship to Will’s Repair Service to fix a broken key. He states that Will’s notified him by phone that the typewriter arrived broken into several pieces and therefore could not be repaired under warranty. Claimant alleges that Will’s also told him the typewriter was not shipped in its original box, but in a standard institution box without adequate padding. Claimant’s social worker spoke to the shipping service, UPS, which allegedly told her that they would not pay for the damage because their investigation concluded the typewriter was improperly packed. Claimant filed a complaint with the Inmate Complaint Review System. He provided contact information for both UPS and Will’s Repair Service, so the Institution Complaint Examiner could contact them as part of the investigation. Claimant states that the ICE did not contact either party, but simply relied on the property sergeant’s statement that she packed the typewriter in the original box with the original padding. Claimant believes the ICE’s investigation was inadequate because contacting Will’s or UPS would have proven the sergeant’s statement was untrue. Claimant believes the ICE’s inadequate investigation was a violation of DOC 310, Wis. Admin. Code and requests reimbursement for his damaged typewriter.

DOC recommends denial of this claim. The Inmate Complaint Examiner’s investigation determined that DOC staff properly packed claimant’s typewriter in the original box with the original padding as is standard practice and that DOC was therefore not responsible for any damage. This conclusion was upheld by the institution warden and the Corrections Complaint Examiner. DOC notes that claimant has submitted no evidence of any negligent handling of his

typewriter by DOC staff. Despite claimant's statements regarding UPS's investigation, he has submitted no evidence that UPS concluded the typewriter was improperly packed. Finally, as of this date, the typewriter is still in the possession of Will's Repair Service and DOC is therefore unable to confirm the damage alleged by claimant.

The Board concludes claimant has failed to provide evidence of the value of the typewriter, there has been an insufficient showing of negligence on the part of the DOC employees in packing the typewriter, 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.

7. Cory Frederiksen of Portage, Wisconsin claims \$99.85 for value of property allegedly lost by Department of Corrections staff. Claimant is an inmate at Columbia Correctional Institution. On December 9, 2016, he was transferred to Temporary Lock Up (TLU) and his personal property was packed up by DOC staff. On December 12, 2016, his property was returned, and he notified DOC that several items were missing. He filed an inmate complaint about the missing property, but his complaint was denied. Claimant states that the additional missing items he added to this claim were not included in his original inmate complaint because he received additional property back after the inmate complaint was filed and discovered more missing items. Claimant points to Division of Adult Institutions Policy 309.20.03, which provides that when property is packed up due to an inmate's transfer to TLU, the inmate is supposed to be allowed to review and sign the property inventory form. Claimant states that he was not given his property inventory form to review and sign, in violation of that policy. He also states that state and federal law have found that once an inmate is placed in TLU, his property becomes the responsibility of the staff assigned to the unit. Claimant alleges that DOC staff was negligent in handling his property and requests reimbursement.

DOC recommends denial of this claim. DOC investigated this incident in response to claimant's inmate complaint. The complaint investigator reviewed his property inventory and receipts and determined that the allegedly missing items were not in claimant's property at the time he was transferred to TLU. DOC notes that these items could have been given away, lost, or stolen at any time prior to claimant's transfer. DOC also notes that claimant is now alleging that more items were missing than he did in his original inmate complaint. DOC believes he has not exhausted his administrative remedies regarding those additional items. DOC has found no evidence that claimant had those additional items in his cell when he was transferred to TLU. DOC believes there is no evidence that staff mishandled claimant's property and that his claim should be denied.

The Board concludes the claim should be paid in the reduced amount of \$38.44 based on equitable principles. 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.

8. Wade A. Strassburg of Oregon, Wisconsin claims \$1,320.00 for rent and transportation expenses allegedly related to an accident at Stanley Correctional Institution (SCI) in July 2015. At the time of the accident, claimant was an inmate employee working in the SCI kitchen. He states that he slipped and twisted his knee because the floors were wet. He points to the fact that there were no "wet floor" signs posted in the area, despite the fact that SCI staff had told inmates to empty the water from the steam tables onto the floor. Claimant states that his injury required knee surgery after his release from SCI. He alleges that he has been unable to work because of the injury and therefore cannot keep up with his rent payments. In addition, he is claiming transportation expenses for travel to and from various medical appointments related to his injury.

The Department of Corrections recommends denial of this claim. DOC believes claimant has not demonstrated that his expenses are the result of DOC negligence. DOC notes that claimant has provided no receipts or proof that he would not have incurred these expenses but for the negligence of DOC. Claimant filed an inmate complaint related to this accident. The investigation into that complaint revealed that floors in the food service area are often wet, especially during the summer months, a condition of which claimant should have been aware. In addition, food service employees' duties include cleaning all equipment, which results in varying amounts of water on the floor. DOC believes that as a food service employee, claimant should have been aware that the kitchen floors were often wet and exercised reasonable caution while performing his duties. His inmate complaint was denied. DOC believes it responded appropriately to the accident by providing medical attention to claimant and that there is no evidence of negligence by DOC or its employees.

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. Terrance J. Shaw of Sturtevant, Wisconsin claims \$400.15 for court filing fees, cost of service, supplies, and photocopies allegedly incurred due to the actions of Department of Corrections staff. Claimant received a conduct report charging him and his roommate with covering their cell door window. He filed a complaint with the Inmate Complaint Review System, which was denied. He filed a Writ of Certiorari in Dane County Circuit Court challenging the conduct report. The court found no evidence supporting claimant's guilt. The court reversed DOC and vacated the conduct report. In its decision, the court stated that the conduct report was "arbitrary and capricious," that DOC "did not follow its own rules," and that claimant's "right to due process was violated by the DOC's staff." Claimant takes issue with DOC's assertion that he has not exhausted his administrative remedies. He notes that these costs were incurred in January-February 2017. DOC rules require that ICRS complaints be filed within 14-days, therefore, any complaint he filed now would be considered untimely. Because no remedy exists for him under the ICRS system, he

is not legally obligated to use it. DOC also seems to suggest that § 814.25, Stats., shows legislative intent to completely bar prisoners from ever receiving costs for actions related to prison conditions. Claimant believes this is a misinterpretation of the statute, which clearly allows costs under certain circumstances. Claimant notes that § 814.25, Stats., only bars *the court* from awarding costs in a certiorari action related to prison conditions, it is not a total ban against prisoners receiving costs. Claimant states that such a ban would violate prisoners' rights under Article 1, Section 9 of the Wisconsin Constitution. He requests reimbursement for his costs, which would not have been incurred but for the arbitrary and capricious actions of DOC.

DOC recommends denial of this claim. While claimant did file an ICRS complaint related to the conduct report he received, he did not file a subsequent complaint requesting reimbursement for his costs. Because he did not do so, he has failed to exhaust his administrative remedies as required by Chapter DOC 300, Wis. Admin. Code. DOC also believes that § 814.25, Stats., makes it clear that the Wisconsin Legislature did not want prisoners to be awarded costs for actions related to prison conditions. Section 814.25(2)(b), Stats., specifically states such costs are not allowed for certiorari actions related to prison conditions. DOC believes that if the court is not allowed to award such costs, it stands to reason that claimant should not be allowed to circumvent the statute by claiming such costs before the Claims Board.

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. Donovan Crowe of Portage, Wisconsin claims \$257.60 for monies allegedly illegally deducted from claimant's inmate account at Columbia Correctional Institution. In December 2016, the Department of Corrections switched computer software from the Wisconsin Inmate Trust System (WITS) to the Wisconsin Integrated Corrections System (WICS). After the switch, WICS deducted \$80 court costs and \$170 supervision fees from claimant's inmate account. He alleges that these debts had already been paid under the WITS system. He filed an institution complaint and both the Inmate Complaint Examiner, and the Corrections Complaint Examiner affirmed his complaint. Despite this decision, DOC's business office has refused to refund the money to claimant. Claimant points to two January 2017 DOC memos as evidence that DOC admits it erred in deducting the money. He requests reimbursement for the \$250 deducted from his account and \$7.60 for the cost of filing this claim.

DOC recommends denial of this claim. DOC states that the initial decision to affirm claimant's institution complaint was erroneous. After the decision, it was discovered that the court costs and supervision fees had never been added to claimant's debts and obligations under the WITS system and had therefore never been deducted from his account. This oversight was discovered when the switch was made to the WICS system and those debts were added to claimant's

accounts and properly deducted under the new system. DOC notes that the January 2017 memos do not support his argument and are not admissions of error by DOC in this matter. DOC believes claimant has submitted no proof that he has previously paid these debts and that his claim should be denied.

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 following identified claimants are denied:

Jay Callahan
 Penny Schofield
 Vance Hernandez-Smith
 Wade A. Strassburg
 Terrance J. Shaw
 Donovan Crowe

That payment of the amounts below to the identified claimants from the following statutory appropriations is justified under § 16.007 (6)(b), Stats:

Kurt & Barb Zipp	\$245.00	§ 20.566(1)(a), Stats.
Randy Alexander	\$108.44	§ 20.410(1)(a), Stats.
Corey J. Frederiksen	\$38.44	§ 20.410(1)(a), Stats.

That decision of the following claims is deferred until a later date:

Shanquill Bey
Dated at Madison, Wisconsin this 27th day of February, 2018.

COREY FINKELMEYER
 Chair, Representative of the Attorney General

CHRISTOPHER N. GREEN
 Secretary, Representative of the Secretary of Administration

KATIE E. IGNATOWSKI
 Representative of the Governor

LUTHER OLSEN
 Senate Finance Committee

MARY FELZKOWSKI
 Assembly Finance Committee

***Motions Under Senate Rule 98 and Joint Rule 7
 for the Month of February 2018***

A certificate of commendations by the Wisconsin Senate on the motion of Senator Stroebel, for Hunter Babcock, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Erpenbach, for Alyssa Beery, on the occasion of the completion of the Senate Scholar Program.

A certificate of commendations by the Wisconsin Senate, for Joshua G. Bixler, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of condolences by the Wisconsin Senate on the motion of Senator Taylor, for the family and friends of Monica Joyce Campbell, on the occasion of extending our deepest sympathies to her family and friends.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Ringhand, for Brady Deegan, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Nass, for Megan Degner, on the occasion of the completion of the Senate Scholar Program.

A certificate of commendations by the Wisconsin Senate on the motion of Senator Darling, for Kent Eliason, on the occasion of receiving the 2017 President's Award from Chamber President Leanne Buttke and the Menomonee Falls Chamber of Commerce and wish him success in future endeavors.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Vukmir, for Amanda Eve, on the occasion of the completion of the Senate Scholar Program.

A certificate of commendations by the Wisconsin Senate on the motion of Senator Darling, for Benjamin Ferree, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Risser, for William Franken, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Vukmir, for Elizabeth Gardner, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Moulton, for Joshua Gienapp, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Shilling, for Tayler Jones, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Olsen, for Ryan Krieser, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Hansen, for Coleman North LaBlanc, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Risser, for Awonder Liang, on the occasion of achieving the Grandmaster title from the Federation International des Echecs, and we wish him all the best at the 2018 United States Closed Championship in St. Louis, Missouri.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Erpenbach, for Nicholas Maxfield, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of commendations by the Wisconsin Senate on the motion of Senator Taylor, for First Lady Prentiss McClelland, on the occasion of her 65th Birthday and acknowledges her contributions, advocacy and compassion that continue to inspire the people of our community.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Cowles, for the Nicolet Mill, on the occasion of 125 years of operation and wishes safety and success for the Nicolet Mill and its current employees for years to come.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Kapenga, for Benjamin Mayo, on the occasion of the completion of the Senate Scholar Program.

A certificate of commendations by the Wisconsin Senate on the motion of Senator Miller, for the Monona Grove boys swim team, on the occasion of an outstanding season and wish them well in their future endeavors.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Hansen, for John Olsen, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of commendations by the Wisconsin Senate on the motion of Senator Stroebel, for Noah R. Pecor, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Lasee, for Emily Pinkert, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Cowles, for Tom Seidler, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Vinehout, for Tiffani Skroch, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Petrowski, for Anna Taylor, on the occasion of the completion of the Senate Scholar Program.

A certificate of commendations by the Wisconsin Senate on the motion of Senator Darling, for Gordon Thompson, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of commendations by the Wisconsin Senate on the motion of Senator Stroebel, for Nicholas Thorison, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Vinehout, for Benjamin Walz, on the

occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Craig, for Katherine Watson, on the occasion of the completion of the Senate Scholar Program.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Kapenga, for Mitch Whitmore, on the occasion of his performance on the U.S. Olympic Long Track Speedskating Team, and for his service to his country in the 2018 Olympic Winter Games in PyeongChang.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Shilling, for Yining Zhou, on the occasion of the completion of the Senate Scholar Program.