

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee on
Finance (JC-Fi)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

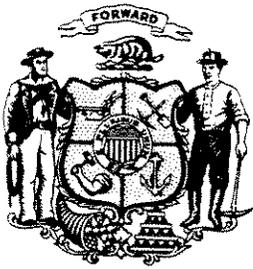
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➤ Miscellaneous ... Misc

➤ 97hrJC-Fi_Misc_pt142_LFB

➤ Record of Comm. Proceedings ... RCP

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STATE OF WISCONSIN INVESTMENT BOARD

**SWIB Budget Presentation to the Joint Committee on Finance
Patricia Lipton, Executive Director
March 25, 1997**

Good afternoon, Senator Burke, Representative Jensen, Committee Members.

The Investment Board is responsible for managing over \$43 billion for the Wisconsin Retirement System, the 10th largest public pension fund in the U.S. and the 20th largest public or private pension fund in the world.

In 1997, the WRS will pay in excess of \$1.2 billion to over 90,000 retirees, providing financial security to them and benefiting the economies of the communities in which they live. More than 80% of the funding for annuity payments is generated by investment returns, lowering the cost of the Retirement System for state and local taxpayers.

We also manage about \$5.0 billion in shorter-term cash balances for the state and over 1,000 local units of government. These funds are pooled for investment at competitive rates of return.

Our base budget is \$9.1 million in program revenue, which comes from investment earnings in the funds we manage. This represents a cost of less than 2 cents for each \$100 we invest. Our total cost of management last year, including fees paid to outside suppliers of services, were just 10 cents per \$100 invested. Independent experts have confirmed that our expenses are less than most of our peers and well below the typical cost for pension funds managing assets comparable to SWIB's.

The additional resources you approved last year are making an important contribution to our operations and performance. I would like to thank you and the Governor again for your support.

During the next biennium, we anticipate that the funds we manage will grow by about \$8.0 billion. Our budget anticipates additional staff only to support critical improvements in our information systems (LFB Summary Item #2). Information technology is vital to every aspect of the investment process—from the analysis of potential investments, to the execution of trades in markets across the globe, and the monitoring of performance and risk of the more than 2,400 investments we hold in our portfolios.

The Legislative Audit Bureau and other outside experts have confirmed that our information systems are in need of significant improvement. The Governor's recommendation provides a substantial commitment of funding for this effort and we are very appreciative.

Our information technology objectives for the next two years are to implement:

● ***A comprehensive accounting system for managing all of our income collection, trade management and financial reporting responsibilities.*** Our current accounting and operations processes are fragmented, requiring reentry and multiple reconciliations of 20,000+ transactions per year. The planned system will reduce the potential for errors and should quicken the delivery of information to fund participants.

● ***Electronic stock trading systems.*** The investment industry is moving toward paperless trading. Improvements in SWIB's systems are needed for us to stay competitive in executing 10,000 domestic stock trades each year. The new system will enable SWIB to see potential trades without being dependent on broker phone calls. This will help performance.

● ***A central database which integrates key investment information.*** This will bring together key data from all of our investment and operations activities. It will quickly improve our management reporting and oversight capabilities. It will also provide the foundation for longer-term improvements in risk management and compliance monitoring.

● ***Automated tracking of compliance of investments with policy guidelines.*** For most investments, this will enable us to monitor guideline compliance either before or after a trade is executed.

We are completing a detailed review of the hardware and software products that provide these functions. Based on this review, we are requesting that the \$2.85 million provided in the Governor's budget be increased by \$1.9 million for the first phase of the project. Recognizing that each investment decision involves on average about \$18 million, one better investment decision made as a result of systems improvements could potentially pay for the costs of the project.

We are providing additional information to the Legislative Fiscal Bureau and the Department of Administration regarding what can be accomplished in the next biennium with the requested funding. As suggested by the Governor's recommendation, we would propose to install remaining components of the project in the following biennium.

The recommendation to preclude new information technology staff from participating in our performance bonus compensation is a concern (LFB Summary Item #3). Our IT staff have become increasingly important to the "bottom line". The exclusion of these staff will further weaken our ability to provide competitive compensation. This concern has been reinforced by the recent loss of a senior systems analyst who was responsible for risk management and compliance systems development. This individual accepted a position in the private sector for double his SWIB salary.

I would also like to briefly mention a change in our authority to directly charge the funds for certain types of expenses (LFB Summary Item #6). This recommendation is being made in conjunction with the funding provided in the budget for the information technology project. As drafted, the language may have the unintended effect of eliminating funding for services which are unrelated to the IT initiative. We are providing additional information to the Legislative Fiscal Bureau and DOA on this item.

Thank you for this opportunity to discuss our budget. I look forward to working with you and would be happy to answer any questions.

**SWIB Budget Presentation to Joint Finance Committee
John Petersen, Chairman of the Investment Board
March 25, 1997**

Good afternoon, Senator Burke, Representative Jensen, Committee Members.

On behalf of the Trustees of the Investment Board, I would just like to make a brief comment about the importance of the information technology initiative in our budget.

The oversight of \$50 billion is a large responsibility. As Chairman of the Board, I can tell you that we take it very seriously.

If we are to provide effective oversight we need effective information systems.

Our planning for new information systems has been almost two years in the making. Everyone who has looked at our technology, —from the Audit Bureau, to DOA IT staff to outside experts—has come to the same conclusion. Our systems are not adequate to provide timely and comprehensive management information.

We very much appreciate the help you have given us on other resource problems. I would like very much to work with you and the Governor to address this need.



As Wisconsin prepares to celebrate its Sesquicentennial in 1998, it seems fitting to take a brief look at one segment of federal land grants to this and other states and to our oldest state agency, the Board of Commissioners of Public Lands.

The History

After the Revolutionary War, the original thirteen colonies ceded lands to the federal government as one of the conditions for becoming states in the new union. The General Land Ordinance of 1785 provided for the rectangular survey and sale of these ceded lands which became known as federal public domain lands. The Ordinance also initiated a program of land grants for schools, providing that Section 16 in every township would be reserved "for the maintenance of public schools within said township".

The Northwest Ordinance, passed in 1787, provided a system for territorial governance and transition to statehood. New states, including Wisconsin, were formed from territories from 1803 (Ohio) to 1912 (New Mexico and Arizona). Every territory negotiated different agreements with the federal government to achieve statehood, including grants of land to support public education and other institutions. Wisconsin was ultimately granted almost 10 million acres (almost one-third of the state's surface area), of which some 5.2 million acres were to support public education. Some earlier states which had not received such lands were retroactively granted acreage in other, newer states. For instance, to support Cornell University, New York was granted pine lands in Wisconsin. Territories which became states in more recent times were granted more sections of land to support schools than earlier ones.

Interestingly, the 1785 General Land Ordinance did not envisage or call for the sale of "school lands". It was thought that leasing these lands would provide the support necessary for schools. Leasing, however, proved untenable because the federal government was giving away or selling other land so cheaply. That is why states began including the concept of selling granted lands in their constitutions. They did not know what else to do with these lands to garner support for the schools. The Board of Commissioners of Public Lands, comprised of the Attorney General, the Secretary of State, and the State Treasurer, was established in Wisconsin's constitution to oversee the sale of granted lands and insure that the proceeds were deposited into permanent funds, also constitutionally established, and invested for the benefit of schools and the university. The same provisions were made in other state constitutions.

Much of the granted lands were lost due to incompetence, indirection, and corruption. Unfortunately, Wisconsin was no exception. Not only was most of the land sold below market value, but it was put on the market in competition with about 29 million acres of other government land. A major scandal ensued and a scathing legislative report was issued in 1856 concerning these unsavory practices. Fortunately for Wisconsin, there was also a constitutional provision which says "the Commissioners shall have the power to withhold from sale any portion of such lands when they shall deem it expedient". Between 1913 and 1954, Trust Lands were withheld from sale because of low land prices. Between 1954 and 1974, land was sold to both public and private entities. Since 1974, almost all land sales have been to other public agencies.

The Present

Today, the Board of Commissioners of Public Lands holds almost 80,000 acres, many of which have stands of excellent timber. These lands, submerged lands, mineral rights, and the principals of four permanent funds make up the corpus of the Trust established for public schools and the university under the direction of the Board.

At least 27 other states hold and manage Trust Lands. Some have significant acreage and some do not. All acreage, however, is appreciating in value. Minnesota still owns 2.6 million acres of its original grant lands. Maine created a dedicated revenue agency in 1973 and through litigation and trades has recaptured 400,000 acres and acquired 82,000 more. Oregon has stopped selling Trust lands except for isolated parcels. Washington banks desirable lands and exchanges them for lands formerly held in trust. Montana has stopped selling Trust Lands and Idaho limits the acreage which can be sold in any given year. Why? These and other states wish to retain and/or increase their Trust Land holdings for long-term benefits to schools, universities, and other institutions – the trust beneficiaries.

At least 20 of these 28 states still have independent agencies which manage the public Trust Lands, including Wisconsin. Some of these agencies stand alone organizationally, some are attached to other agencies. A few states have totally integrated trust land agencies into other agencies. This arrangement is the exception, however, not the rule. Utah recently removed trust responsibilities from the overall direction of their Department of Natural Resources because of conflicts of interest and has established an independent agency.

Conflicts of interest between public trust land interests and other land management agencies arise because of trustees' fiduciary responsibilities to the trust beneficiaries. For instance, some conflicts arise because staff resources which should be devoted exclusively to the Trust "leak" into larger land management agencies. Some arise because of different land management practices, and some because of pressures to take title to Trust Lands, to name but a few. Similar conflicts and pressures arise from time to time over the Trust Funds, particularly when states find themselves in economic straits. Courts have almost invariably ruled against diversion of trust assets for other purposes, no matter how noble.

Those responsible for trusts are subject to an enormous number of rules which have been defined over centuries in British common law and in American common law. Most of these rules define the obligation of the trustee(s) – in this case, Wisconsin's Board of Commissioners of Public Lands. They include proceeding with undivided loyalty to the beneficiaries, dealing with beneficiaries fairly, openly, and honestly and with full disclosure; exercising prudence, skill, and diligence in caring for the trust, making it productive; and preserving and protecting the corpus of the trust. Where duty to make the trust productive conflicts with the duty to preserve and care for the trust, the trustee(s) must act as a prudent investor.

The Future

The fascinating history of federal land grants and the establishment of Trust Lands and Trust Funds is not finished. In the 1970's many states possessing Trust Lands began to move away from the concept of selling them off. In the 1990's Trust Land and Fund assets have become more visible and more appreciated for their support to schools, universities, and other institutions. Some states are now purchasing more land, putting it into trust, and managing for the beneficiaries. Management of the Trust Funds is also becoming more diversified. The trust corpus in Washington actually owns office buildings in downtown Seattle. Submerged assets such as sunken logs and oil and gas leases are also becoming issues in trust management.

Wisconsin may choose to sell off the rest of their small but valuable trust surface land holdings. Or, we could choose to hold them for long-term benefits. Or, if we choose the latter and acquire by sales or grants a larger and better Trust Land base, we could provide even more educational support to the trust beneficiaries. Certainly, Wisconsin can be proud of the care taken of these Trust Land resources in the last 40 to 50 years.

And, once again, one can only marvel and revere the foresightedness of those who created the United States of America, as well as Wisconsin's wise founders.

Sources

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Western States Trust and Sovereign Lands Survey. Souder and Fairfax, 1991.

Eastern Lands and Resources Council State Directory and Information Guide, 1993.

**REMARKS BY CHIEF JUSTICE SHIRLEY S. ABRAHAMSON
BEFORE THE JOINT COMMITTEE ON FINANCE
March 26, 1997**

Good afternoon, Chairman Burke, Chairman Jensen and members of the Joint Committee on Finance. I appreciate the opportunity to appear before you this afternoon to speak about the Wisconsin court system and the impact the Governor's budget recommendations may have on its operation.

As you know, this is my first year as Chief Justice and, therefore, my first opportunity to speak with you formally as a Committee. I look forward to a long and cooperative relationship with the Legislature as an institution and with you as individuals.

All too often the three branches of government do not make adequate effort to understand each others' unique yet complementary roles in our scheme of government or our respective institutional obligations. The three branches must learn to communicate and to understand each other better. Although separate and independent, we must find ways to work together to better serve the people of Wisconsin. I hope to have the opportunity to meet with each of you and share my vision for the Wisconsin court system with you.

In recent years concerns about the doctrines of separation of powers and inherent powers have focused on the issue of funding for the courts. While the state constitution gives the Judicial Branch the power of self-administration, there is no express provision for court funding. What you have before you as you consider the budget does not include most of our budget requests. You have only the few items of our requests with which the Governor agrees.

The Legislature, under its authority to tax and spend, determines the appropriation for the court system, pursuant to the Governor's recommendations and subject to the Governor's veto. Along with the Legislature's power to tax and spend goes, I believe, the Legislature's responsibility to ensure that the judiciary, as a co-equal branch of government, has sufficient funds to fulfill its mission for the people of the state. The Legislature, in the exercise of its independent judgment and careful scrutiny, should, in my opinion, give deference to the funding requests submitted by the judiciary. To give deference, of course, does not mean to rubber stamp.

I understand that the availability of additional funds in the coming biennium is limited and that the priorities set forth for the court system must fit into the broad priorities for the state as a whole. The bottom line, however, is that if the courts are to operate effectively for the public, they must be adequately funded.

I will address only selected budget requests the Court has made: the Circuit Court Automation Program (CCAP); the Information Technology Strategic Plan; Reserve Judge Compensation; Administrative Staff Needs; the State Law Library; and Statutory Changes Related to Management Flexibility.

My written statement and my comments are unfortunately longer than you or I may wish, because with the notable exception of CCAP, the Governor has denied almost all of our fiscal and statutory language requests in his budget recommendation.

I. COURT AUTOMATION PROGRAM (CCAP)

For the courts as an institution, one of the bright spots in the budget this year and for several prior years, has been the Circuit Court Automation Program, known as CCAP. CCAP is putting the state trial courts on a single, unified computer system with the same hardware and software available to every trial court and clerk of court office in the state. CCAP has fully or partially implemented case management (which moves

cases more efficiently through the system) in 69 counties; financial management (which helps track payment of fines) in 45 counties; jury management (which helps make jury service less burdensome) in 53 counties; and a court information repository with statewide information in Madison.

CCAP currently has more than 2300 users in 73 locations across the state. CCAP's over \$16 million investment in the infrastructure of Wisconsin's counties can certainly be viewed as property tax relief: Without CCAP's support, this equipment would have been paid for, if at all, by the counties from property tax revenues.

In addition to performing its responsibilities for the courts, CCAP's assistance to the Department of Administration's Bureau of Justice Information Systems (BJIS) in the delivery of the first phase of the District Attorney information technology project is a prime example of executive-judicial branch cooperation for the people of this state. BJIS is relying upon CCAP's recognized expertise in automated systems implementation and support. CCAP has become a model not only for DOA but for court systems around the country.

In this budget recommended by the Governor, we will finally be able to formalize the permanent status of CCAP personnel by having the remaining project positions made permanent. We appreciate DOA's help in this effort.

In addition, now that CCAP is a mature program, we have requested funds to begin the ongoing process of replacing the aging computer equipment that has been supplied to the counties. We greatly appreciate the acknowledgment of our need and the intent of the proposal to fund it in part..

The biennial budget provides us half of the funds requested by increasing the Justice Information Fee by \$2. I should point out, however, an alternative funding source, the Circuit Court Support Fee, a fee imposed on users of the court system,

exists. This fee currently generates \$2million more than is required by the three programs (circuit court support grant, guardian ad litem reimbursement and reimbursement for transcripts used by the public defender) it supports. The additional revenue generated by this fee if it came to CCAP rather than the general fund is sufficient to fund our request for equipment replacement for CCAP, without further burdening the customers of the court system.

II. INFORMATION TECHNOLOGY STRATEGIC PLAN

Acknowledging the increasing importance of technology in the work of the courts, the Judicial Branch has established and is committed to implementing an Information Technology Strategic Plan similar to that required of all executive branch agencies. The plan is designed to assist us in defining the role information technology will play in the future of the court system and to provide the blueprint to move forward. Unfortunately, the Governor's budget recommendations do not provide the Supreme Court or its departments with sufficient resources to fulfill our part of the plan. This lack of funds, coupled with the 2% across-the board cut in our base budget, will make the task of keeping faith with this plan much more difficult.

The restoration of our original modest request will allow us to accomplish the tasks identified in our information technology strategic plan for the coming biennium.

III. RESERVE JUDGE COMPENSATION

As you know, our heavy caseload and limited resources have made reserve judges essential to the functioning of the court system. Competition for the services of retired judges is keen. Private interests and executive branch state agencies offer retired judges up to three times the compensation they would receive if they worked as reserve judges.

Reserve judges need to be fairly compensated. In 1978 at the time of court reorganization, reserve judges were paid 90% of the daily salary of a sitting judge. The compensation of reserve judges has been allowed to erode unconscionably over the years to the point that the present per diem for a reserve judge is only 68% of the salary of the judges they replace. On an hourly basis, the compensation now paid to reserve judges is less than the salary being paid to many state-employed attorneys. For reasons of fairness and to ensure the availability of these invaluable human resources, we must restore the relationship between reserve and sitting judges' compensation to the equitable 90% established at the time of court reorganization.

IV. ADMINISTRATIVE STAFF NEEDS

Our judicial system needs more than judges. We need administrative staff both to assist us in the decision making process and to implement the many programs that maintain and improve the functioning of the courts. We ask for administrative personnel in 3 areas: The Office of the Clerk of the Supreme Court and Court of Appeals; the Milwaukee county judicial district; and human resources staff. Chief Judge Eich will discuss our need for additional staff attorneys for the Court of Appeals.

A.. The Office of the Clerk of the Supreme Court and the Court of Appeals.

The caseload for the clerk's office has been increasing each year. Since court reorganization in 1978, the caseload of the Clerk's office has increased by 520%, while staffing has increased by only 50% (from 8 to 12 people). The Clerk's Office, unfortunately, has been unable to gain sufficient position authority to fulfill its obligations.

The long-standing need for additional positions in the Clerk's Office was until this past fall exacerbated by the dangerously crowded conditions in the Capitol which prevented the hiring of additional personnel. The recent move of the Clerk's Office to the Tenney Building enabled the Clerk's Office to hire several full time LTE employees.

These employees are performing the duties of full time professionals and are needed on a permanent basis, yet we cannot offer them vacation, sick leave or other fringe benefits. It has been, and should continue to be, state policy that staff performing permanent functions occupy permanent positions with associated benefits. In addition to being unfair to the people involved, the LTE arrangement is inefficient: it results in high turnover, and a constant expenditure of resources on repeated recruitment and training.

We are therefore asking for approval of our request to grant the LTE staff in the Clerk's office permanent status.

B. Milwaukee County Judicial Administrative District Staff. A second area in need of additional administrative staff is the Milwaukee County judicial administrative district which currently has two state administrative positions. Milwaukee county has 46 branches of circuit court, compared to an average of 21 for the other 9 judicial administrative districts. Milwaukee county accounts for 25% of circuit court cases statewide and 28% of the felony cases.

While our original budget submission was for six positions over the biennium, we acknowledge that additional positions are hard to come by. We therefore request that these needs be addressed by phasing in the additional positions over the next two biennia.

C. Human Resources Staff. One critical area in need of additional administrative staff is human resources. The Judicial Branch, as a separate and independent branch of government, has responsibility for its own human resources services. Yet, we have less than half the personnel staff per employee of an executive branch agency of comparable size. We would need a minimum of three additional positions just to match comparable executive branch agencies. Considering the need, our request is modest

but critical. Personnel work is heavy, nonstop, and unglamorous – but it is essential. It would be irresponsible for the Court as an employer to tolerate continued understaffing of our personnel department. Understaffing stymies our ability to meet our obligations under law and to provide the full range of services that management, employees and prospective employees expect and deserve.

We therefore request that an additional position for our human resources staff be approved.

V. STATE LAW LIBRARY

The price of law books has increased sharply, while our book budget has been flat for the past three years. The Library is no longer able to purchase new titles, and gaps are appearing in continuing collections. Budget reductions proposed in the coming biennium make this situation even more critical.

We urge you to restore sufficient funds to offset the inflationary price increases in legal materials so that our collections remain current and uninterrupted.

VI. STATUTORY CHANGES FOR INCREASED MANAGEMENT FLEXIBILITY

In addition to our requests for funds, we have also requested several statutory changes in the budget to enhance our ability to manage our own resources. Approval of the changes we propose will give the judiciary the same abilities and flexibilities the Legislature already has for itself and has given to certain executive branch agencies. Some examples:

- We would like flexibility to create program revenue positions for programs funded from grants or direct assessments approved by the Supreme Court. Despite having a signed contract and funds in hand from Milwaukee County to operate the Milwaukee County Legal Resource Center, it took ten weeks to navigate the statutory position approval process to have positions approved for the Center. While I can

understand the need to control the growth of state government, when we have non-state funds the delay in obtaining position authority is counter-productive.

- We have sought budget flexibility by requesting the conversion of our two annual sum certain GPR appropriations to biennial appropriations. The legislative service agencies which are funded by biennial appropriations can appreciate the abilities such appropriations afford them. Yet our request was denied by the Governor. While I do not claim to understand all the intricacies of budgeting (yet), it would seem to me that flexibility to respond efficiently to needs, at no additional cost, is simply good government and smart management. Approval of our request would be just that.

- We have requested that program revenue operations such as CCAP, whose revenues are controlled by fees established in the statutes, be permitted to spend the funds that are generated for the program without going through a cumbersome approval process for expenditure authority. The cumbersome approval process limits our ability to manage CCAP and other program revenue departments' resources efficiently. Once again, other parts of government have their program revenue operations funded through continuing appropriations, yet the judiciary, a separate branch of government, does not! We therefore request that our remaining program revenue departments' appropriations be converted from annual to continuing.

All of these statutory changes are without cost to the taxpayers and can result only in improved efficiencies. I hope we can work together to restore them to our budget request.

VII. COURT INITIATIVES

I don't want to leave you with the impression that the judicial branch is waiting around with its hand out before beginning new initiatives and breaking new ground. We

can point to a long list of accomplishments in the past year, most of which have been achieved at no additional cost to the state.

- One of the most important matters the Supreme Court acted on during the past term was the comprehensive revision of the Code of Judicial Ethics. Clear standards of judicial conduct are of great concern and importance to both judges and the public.

- This year a great deal of time and energy went into preparation for implementation of the new juvenile codes. Members of the Court's Forms Subcommittee composed of judges, elected clerks of court and administrative staff have spent up to 200 hours each to ensure that the materials to implement the legislation were ready for distribution before the July 1 effective date.

- The Court has also been working toward providing a safe and secure environment in courthouses for the public, jurors, litigants, court staff, and judges. We continue to work with the counties to implement the new Supreme Court Rule on courthouse security.

- An important focus of my tenure as Chief Justice has been fostering and improving our partnership with the public as well as our partnership with the other two branches of government. This year, to check on the health of that partnership, we administered a consumer survey to randomly selected individuals who participated in civil, family, small claims and traffic cases. Our response rate was nearly 40%. The results of this survey show that in general, the public approves of the way things are handled in the court. As part of this partnership, a number of programs have been initiated by the Supreme Court at no additional cost to the taxpayers:

- High school students from every public and private high school in the state have been invited to attend a Supreme Court oral argument and meet with a justice over the noon hour. Response has been overwhelming.
- In a pilot project aimed at helping people gain equal access to justice, the State Bar has funded the development of an information center in the Brown County courthouse. The center will offer a variety of resources to people who do not have lawyers.
- Our ride-a-long program which many of you have participated in continues and has been expanded to include local elected officials.
- A new initiative by the Supreme Court is the Volunteers in the Courts program. By increasing the use of citizen volunteers in the courts, we are forging a relationship with the community based on mutual understanding and trust as well as enabling the courts to satisfy currently unmet needs.
- Our search for additional funds to support the court system has taken us to the federal government as well. In 1995, the Wisconsin Supreme Court received funding under the federal Court Improvement Program to assess the effectiveness, timeliness and quality of Children in Need of Protection or Services (CHIPS) proceedings in this state. These federal funds offer Wisconsin the opportunity to respond sensitively and creatively to CHIPS (Children in Need of Protection or Services) cases.

Thank you again for the opportunity to speak with you. We in the judicial branch recognize that we are only one part of a system of justice that includes thousands of men and women who work in law enforcement and corrections, in social services, and

as attorneys. We shall continue to seek the support and help of the public and our partners in government in assuring justice to the people of Wisconsin. I look forward to working with all of you in the years ahead. I need and welcome your help and cooperation in accomplishing our goal of providing the public a fair, impartial, accessible and cost effective court system.

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State of Wisconsin Department of Corrections

TESTIMONY OF MICHAEL J. SULLIVAN BEFORE THE JOINT COMMITTEE ON
FINANCE

March 26 , 1997

WISCONSIN DEPARTMENT OF CORRECTIONS 1997-99 BIENNIAL BUDGET REQUEST

GOOD AFTERNOON. THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY ABOUT THE DEPARTMENT OF CORRECTIONS BIENNIAL BUDGET REQUEST.

WHEN I APPEARED BEFORE THIS COMMITTEE TWO YEARS AGO, IT MARKED THE START OF A TRANSFORMATION IN THE STATE'S APPROACH TO CRIME AND PUBLIC SAFETY. THE STATE'S LAST BIENNIAL BUDGET AND ENSUING LEGISLATION RECOGNIZED THE NEED FOR NEW WAYS TO MANAGE OFFENDER POPULATIONS AND LAID THE FOUNDATION TO IMPLEMENT INNOVATION AND CHANGE IN THE CORRECTIONS SYSTEM.

OVER THE PAST TWO YEARS, WE HAVE ACHIEVED MUCH; WE HAVE CREATED A NEW FRAMEWORK FOR ADDRESSING ISSUES OF CRIME AND PUBLIC SAFETY IN WISCONSIN:

- IN JULY 1996, THE DEPARTMENT COMPLETED A MAJOR REORGANIZATION TO PREPARE FOR NEW WAYS TO MANAGE OFFENDER POPULATIONS AND TO IMPROVE EFFICIENCY IN ITS DAY TO DAY OPERATIONS.
- THE DEPARTMENT HAS ALSO ASSUMED RESPONSIBILITY FOR ALL OF JUVENILE CORRECTIONS, INCLUDING DISTRIBUTION OF YOUTH AIDS.
- A NEW JUVENILE JUSTICE CODE WAS ENACTED, WHICH CHANGED FROM 18 TO 17 THE AGE AT WHICH A JUVENILE IS CONSIDERED AN ADULT, AND MARKED SIGNIFICANT IMPLICATIONS FOR BOTH THE JUVENILE AND ADULT SYSTEMS.

- IN DECEMBER, 1996, THE GOVERNOR'S TASK FORCE ON SENTENCING AND CORRECTIONS SUBMITTED A REPORT WHICH RECOMMENDED NEW WAYS TO DELIVER PUBLIC SAFETY.

WHILE WE HAVE MADE GREAT STRIDES, WE HAVE SEEN PROFOUND CHANGES IN PRISON POPULATIONS.

IN JUST TWO YEARS, THE DEPARTMENT HAS SEEN A TWENTY-FIVE PERCENT GROWTH IN THE ADULT PRISON POPULATION, FROM APPROXIMATELY 10,300 TO NEARLY 13,500 INMATES. OVERCROWDING HAS REACHED CRITICAL PROPORTIONS.

AT DODGE CORRECTIONAL INSTITUTION, FOR EXAMPLE, ROUGHLY 80% OF THE CELLS ARE DOUBLE-BUNKED. THE CROWDING AT DODGE IS SUCH THAT SOME OF THE DAYROOMS ARE BEING USED TO HOUSE INMATES, WHICH INCREASES BOTH COSTS AND THE RISKS FOR CORRECTIONS STAFF. AT JACKSON CORRECTIONAL INSTITUTION, WHICH OPENED JUST ONE YEAR AGO, OVER 85% OF THE CELLS HAVE MULTIPLE OCCUPANTS.

WHILE INCARCERATION PROVIDES SAFETY FOR THE PUBLIC, THE OVERCROWDING HAS ME CONCERNED ABOUT THE SAFETY OF CORRECTIONS STAFF.

BY THE YEAR 2000, WE MAY HAVE MORE THAN 19,000 PERSONS INCARCERATED IN WISCONSIN PRISONS.

AT THE SAME TIME, THE JUVENILE POPULATION HAS DECLINED. DURING THE LAST SIX MONTHS OF 1996, THE JUVENILE INSTITUTION POPULATION FELL BY NEARLY 10%, FROM OVER 1,000 TO LESS THAN 900.

WITHIN THIS CLIMATE OF CHANGE, THIS BUDGET BUILDS ON THE FOUNDATION WE HAVE CREATED. OUR BUDGET CONTAINS MAJOR INITIATIVES TO ACCOMMODATE THE GROWTH IN THE ADULT POPULATION, TO ADDRESS THE ISSUES OF JUVENILE CRIME AND TO PROVIDE INNOVATIVE WAYS TO MANAGE THE OFFENDER POPULATION AND ENSURE PUBLIC SAFETY.

OUR INITIATIVES INCLUDE:

INCREASING THE DEPARTMENT'S ABILITY TO CONTRACT FOR PRISON/JAIL BEDS. IN SEPTEMBER, 1996, THE JOINT COMMITTEE ON FINANCE APPROVED A REQUEST TO CONTRACT FOR UP TO 700 JAIL BEDS IN TEXAS. THE DEPARTMENT HAS RECEIVED APPROVAL TO CONTRACT WITH FIVE COUNTIES. THE NAMES OF FOUR ADDITIONAL COUNTIES HAVE BEEN SUBMITTED TO THE FINANCE COMMITTEE FOR REVIEW. THE ANNUAL COST FOR THIS INITIATIVE IS \$ 10.7 MILLION.

THE BUDGET ALSO CONTAINS \$ 8.2 MILLION EACH YEAR AND STATUTORY LANGUAGE TO ALLOW THE DEPARTMENT TO CONTRACT FOR BEDS WITH PRIVATE CORPORATIONS. DEPENDING ON THE RATE NEGOTIATED, THIS MAY PROVIDE FOR UP TO 500 BEDS.

INCREASING WISCONSIN PRISON CAPACITY. IN OCTOBER, 1996, THE BUILDING COMMISSION APPROVED THE CONSTRUCTION OF SEVEN BARRACKS, INCREASING PRISON CAPACITY BY 1,050 BEDS. A S. 13.10 REQUEST IS CURRENTLY BEFORE THE COMMITTEE THAT PROVIDES FUNDING FOR THE START-UP AND STAFF RELATED COSTS IN FY 97. THE BIENNIAL BUDGET FULLY FUNDS OPERATION OF THE BARRACKS AT AN ANNUAL COST OF \$5.2 MILLION.

DUE TO THE DECLINING JUVENILE POPULATION, THE FACILITY CURRENTLY BEING CONSTRUCTED IN RACINE THAT WAS ORIGINALLY PLANNED AS A VIOLENT JUVENILE OFFENDER FACILITY WILL BE CONVERTED TO A YOUTHFUL OFFENDER FACILITY. IT WILL CONTINUE TO SERVE THE SAME POPULATION (AGE 15 TO 21) AND PROVIDE THE SAME PROGRAMMING AS ORIGINALLY PLANNED. THE ONLY DIFFERENCE IS THAT THESE OFFENDERS WILL COME FROM THE ADULT RATHER THAN JUVENILE COURTS.

SENATE BILL 113, WHICH HAS RECENTLY PASSED BOTH HOUSES OF THE LEGISLATURE, ALLOWS THE DEPARTMENT TO TEMPORARILY USE THE FACILITY AT PRAIRIE DU CHIEN TO HOUSE ADULT MALES IN FY 98. IT WILL REVERT TO A JUVENILE INSTITUTION ON JULY 1, 1998.

IMPLEMENTING INNOVATIVE APPROACHES TO ENSURE PUBLIC SAFETY AND MANAGE THE OFFENDER POPULATION.

THE GOVERNOR'S TASK FORCE ON CORRECTIONS RECOMMENDED A NEW CONCEPT , COMMUNITY CONTROL AND CONFINEMENT, THAT COULD DRAMATICALLY CHANGE THE WAY OFFENDERS ARE SENTENCED BY THE COURTS AND SUPERVISED BY THE DEPARTMENT OF CORRECTIONS. THIS BUDGET PROVIDES \$ 11.9 MILLION AND 68.5 FTE OVER THE BIENNIUM TO PILOT THIS CONCEPT IN DANE COUNTY. IF SUCCESSFUL IN ENHANCING PUBLIC SAFETY, THE DEPARTMENT PROPOSES TO ENTIRELY RESTRUCTURE COMMUNITY SUPERVISION IN THE NEXT BIENNIUM.

THIS BUDGET ALSO CONTAINS A TRUTH IN SENTENCING PROPOSAL . THIS PROPOSAL INCREASES THE PENALTIES FOR B, BC, C, D AND E FELONIES. IT ELIMINATES PAROLE AND MANDATORY RELEASE FOR OFFENSES COMMITTED AFTER JULY 1, 1998. IT ALSO CREATES A BIFURCATED SENTENCE STRUCTURE WHERE THE JUDGE DETERMINES THE LENGTH OF INCARCERATION AND COMMUNITY SUPERVISION. THIS PROPOSAL, COMBINED WITH THE RECOMMENDATIONS BY THE TASK FORCE, WOULD ALLOW THE DEPARTMENT TO CONCENTRATE ITS RESOURCES ON THE POPULATIONS THAT PRESENT THE MOST RISK TO THE COMMUNITY.

OUR BUDGET ALSO INCLUDES INITIATIVES TO BETTER MANAGE THE GROWING INMATE POPULATION AND ENHANCE INSTITUTION SAFETY THROUGH INCREASED WORK OPPORTUNITIES. CROWDING IN THE INSTITUTIONS IS NOT SOLELY AN ISSUE OF BEDS. THOUSANDS OF INMATES ARE IDLE, WITHOUT SUFFICIENT PROGRAMMING OR PRODUCTIVE WORK OPPORTUNITIES. OUR BUDGET RECOGNIZES THE NEED TO PROVIDE OPPORTUNITIES TO ENABLE INMATES TO DEVELOP GOOD WORK SKILLS AND TO ALLOW INMATES TO PAY CHILD SUPPORT AND RESTITUTION TO VICTIMS. THEREFORE, THIS BUDGET PROPOSES TO INCREASE THE NUMBER OF PRISON AND PRIVATE INDUSTRY PARTNERSHIPS FROM 3 TO 11, INCLUDING AT LEAST ONE VENTURE TO BE PLACED IN A JUVENILE INSTITUTION.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE YOU THIS AFTERNOON. IF YOU HAVE ANY QUESTIONS, I WILL BE HAPPY TO ANSWER THEM AT THIS TIME.

Statement to the Joint Committee on Finance

William Eich
Chief Judge, Wisconsin Court of Appeals
March 26, 1997

The primary request for an increase in the court of appeals budget this biennium—as it was in the last—is for the addition of three attorneys and one support staff position.¹ We also join Chief Justice Abrahamson's staffing request for the the Clerk's office, since that office serves, and is jointly funded, by both the Supreme Court and the Court of Appeals.

Staff attorneys are as indispensable to the functioning of a busy, high-volume appellate court as are their counterparts in the legislative branch. They are to the court what the staffs of the Legislative Council, Legislative Fiscal Bureau and Legislative Reference Bureau are to members of the legislature.

The court presently has 12.85 staff attorney positions. These lawyers do the groundwork on the 8800 motions and petitions filed in the court of appeals each year, and they assist in drafting nearly 900 judge-supervised memorandum opinions in routine cases. This is in addition to some 900 full opinions written by the court's sixteen judges each year.

Today, the court is essentially working with the same staffing it had eleven years ago. In 1986, we had 11 staff attorneys. Now there are 12 (plus a fraction)—a 15% increase—despite a 33% increase in the number of judges on the court, a 60% increase in the total number of cases filed² and a 160% increase in the number of motions, petitions and opinions that comprise the staff attorneys' principal workload—all in that same period of time.³ [The increase in case and motion filings is

¹ The total increase in appropriations is \$165,900 for the first year of the biennium and \$192,800 for the second.

² In 1986, 2275 cases were filed in the court of appeals. In 1996, there were 3628.

³ In 1986, 3112 motions and petitions and 561 memorandum opinions were assigned to the court's staff attorneys. Last year those totals had risen to 8805 and 879, with an intervening increase of only 1.8 staff attorney positions.

in large part responsible for the need for additional staff in the Clerk's office as well.]

And if the past is prologue, as it has been in the twelve years I've been on the court, these trends will only continue.

The court of appeals has no control over its intake, which has been increasing at a huge rate of growth since the court's creation in 1978.⁴ In addition to a reduction in the time available to be spent on individual cases, the primary effect of a workload increase of these dimensions, coupled with relatively constant staffing, is delay. The time between the filing of the notice of appeal and the issuance of a decision in the average case coming to the court (including briefing time) is approaching one year, despite our increasing efforts to remain as current as possible in our caseload. And without additional staff assistance, that time is bound to increase, to the detriment of the thousands of Wisconsin citizens, your constituents and ours, who must wait longer for resolution of their appeals. And, for the present staff attorneys—professionals who must deal with seemingly endless increases in both the number and complexity of their assignments—loss of morale only exacerbates the other problems.

I think many of you know from the modest nature of the court's past budget requests that we don't gild the lily. The court of appeals is a hard-working, extremely busy court, handling more than three times the number of cases anticipated at its creation less than twenty years ago, with only a modest increase in the number of judges, and an even more modest increase in staff, since that time.

We're doing all we can and we'd like to do better. And that is why we're asking for help.

Thank you very much.

⁴ At its creation, projections were that the court's intake would eventually level off at 900 to 1100 cases per year. As indicated, more than 3600 were filed in 1996.

MESSAGE TO THE JOINT FINANCE COMMITTEE

As Presented By

DOUGLAS LA FOLLETTE, WISCONSIN SECRETARY OF STATE

Honorable Members of the Committee:

In September of 1996, the Joint Finance Committee approved a 16.515 request submitted by the Office of Secretary of State which included one-time funding for an LTE position. That request was based upon a need that has not gone away nor has it diminished, and was the basis upon which this Office included an additional permanent position in its current budget request.

Today I appear before you to respectfully ask that the Joint Finance Committee reinstate the Agency's budget request regarding the authorization of an additional FTE position, as well as the proposed notary fee increase. This budget was developed with careful attention to the fiscal concerns of the state, as well as to our goal of serving the public efficiently and within statutory requirements.

Additional PA2 Position: To summarize, the need for this position is reflected in the increased growth in service volume among the various duties performed by the Government Records Division, as well as the additional duties placed upon the staff as a result of the interagency reorganization mandated by the '95-97 budget. In the last ten years (FY 86 to FY 96), Authentications/Apostilles, etc. went from 3,474 to 11,474 per year; Notary Applications went from 13,754 to 17,647 per year; while Trademarks/Trade Names held fairly steady at 2142 to 2288 per year. During that time period, the Government Records Division has seen no increase to its base staff level. By the end of February of this year, the Office already has processed 1,000 more Authentications and Apostilles than at this same time last year.

MESSAGE TO JOINT FINANCE
Secretary of State, Douglas La Follette
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Under the recent government reorganization and the loss of support staff in the Administrative Services Division and loss of legal counsel, the remaining Government Records staff have taken on the additional burden of mail sorting/handling, purchasing/printing, doing background checks and resulting correspondence related to notary applicants, and serving as backup to remaining Administrative Services Division staff in WISMART-related duties (including entering of journal vouchers, purchase orders, payment vouchers, cash receipts, etc.).

Notary Fee Increase: Currently the Secretary of State is authorized to charge a \$15 fee for both a four year notary commission for non-attorneys and a permanent notary commission for attorneys. This has not changed since 1979. Considering the increased cost of postage and printing and the rising administrative costs due to the increased volume of notary applications, this Office feels it would not be prohibitive to increase the fee to \$20 for a four year notary commission for non-attorneys and to \$50 for a permanent notary commission for attorneys. These proposed fee increases are in line with other states and should not be an undue burden on those to whom it is assessed. In addition, it would enable the Government Records Division to become more self-sufficient in meeting biennial budget demands, especially for salaries and fringes.

Thank you for your time and attention and for your serious reconsideration of the budget proposals. My staff and I welcome your questions as you review the budget impact on the Secretary of State's Office and its ability to serve the public.

HOW DOES THE FEE INCREASE FOR NOTARY PUBLIC
COMMISSIONS BY THE WISCONSIN SECRETARY OF STATE
COMPARE WITH NEIGHBORING STATES?

WISCONSIN: Currently the Secretary of State is authorized to charge a \$15 fee for both a four-year notary commission for non-attorneys and a permanent notary commission for Wisconsin residents who are members of the state bar (see Note). This fee has not changed since 1979. Considering the increased cost of postage and printing and the rising administrative costs due to the growing volume of notary applications, this Office feels it would not be prohibitive to increase the fee to \$20 for a four-year notary commission for non-attorneys and to \$50 for a permanent notary commission (see Note). These proposed fee increases are in line with other states and should not be an undue burden on those to whom it is assessed. In addition, it would enable the Government Records Division to become more self-sufficient in meeting biennial budget demands, especially for salaries and fringes.

ILLINOIS: Currently the Illinois Secretary of State is authorized to charge \$10 for a four-year notary commission. There is a proposal before the State Legislature to change that to \$15 for a five-year commission.

IOWA: Requires a \$30 fee for a three-year notary commission.

MICHIGAN: At this time, the Michigan Secretary of State is authorized to charge \$3 for a four-year notary commission. There is a proposal before the State Legislature to raise that to \$25 for a four-year notary commission.

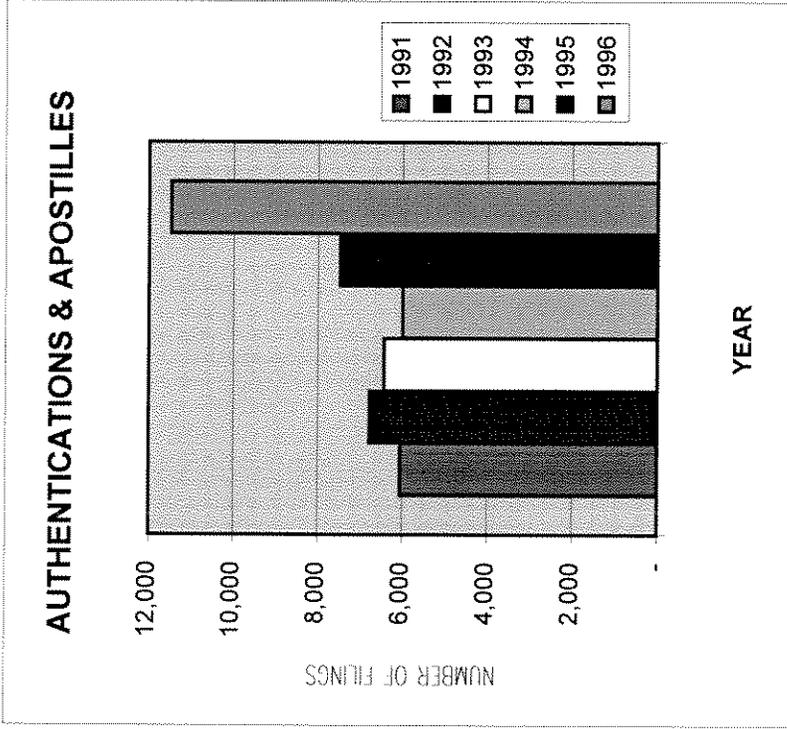
MINNESOTA: In Minnesota there is a \$40 fee for all notaries commissioned up to and expiring on Jan. 31, 2000. After that date, all notary commissions will be \$40 for a four or five-year commission, with all commissions expiring on the notary's fourth birthday following the commissioning date.

Note: Unlike Wisconsin, it appears that none of the neighboring states allows for a "permanent" notary category (defined in Wisconsin as Wisconsin residents who are members of the state bar). All notaries are commissioned for the same length of time at the same fee level. Therefore, there is no relevant data with which to make a comparison in this category.

OFFICE OF THE SECRETARY OF STATE

AUTHENTICATIONS & APOSTILLES

1991	1992	1993	1994	1995	1996
6,054	6,778	6,435	6,001	7,484	11,474



NOTARY

1991	1992	1993	1994	1995	1996
15,908	16,237	17,032	17,260	17,510	17,647

