



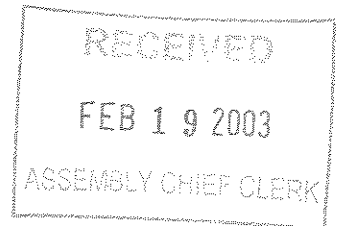
WISCONSIN DEPARTMENT OF  
ADMINISTRATION

2  
JIM DOYLE  
GOVERNOR  
MARC J. MAROTTA  
SECRETARY

Office of the Secretary  
Post Office Box 7864  
Madison, WI 53707-7864  
Voice (608) 266-1741  
Fax (608) 267-3842  
TTY (608) 267-9629

January 31, 2003

Mr. Donald J. Schneider, Chief Clerk  
Wisconsin Senate  
17 West Main Street, Suite 401  
Post Office Box 7882  
Madison, WI 53707-7882



Mr. Patrick Fuller, Chief Clerk  
Wisconsin Assembly  
17 West Main Street, Room 208  
Post Office Box 8952  
Madison, WI 53708-8952

Dear Mr. Schneider and Mr. Fuller:

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 December 2002.

On December 2, 2002, the **General Fund** cash balance closed at a negative \$290.2 million. The negative balance continued until December 20, 2002, when the balance closed at a positive \$54.5 million. On December 26, 2002, the **General Fund** cash balance again fell negative, closing at a negative \$25.1 million. The negative balance continued until December 27, 2002, when the balance closed at a positive \$33.4 million. The **General Fund** cash balance reached its monthly low of a negative \$364.1 million on December 12, 2002. The negative balance was due to the difference in the timing of revenues and expenditures.

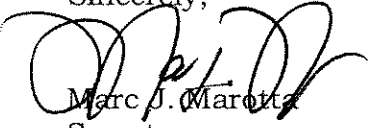
On December 30, 2002, the **Wisconsin Health Education Loan Repayment Fund** cash balance closed at a negative \$1 thousand. This negative balance continued through December 31, 2002. The negative balance was due to the difference in the timing of revenues and expenditures.

The General Fund and the Wisconsin Health Education Loan Repayment Fund shortfalls were not in excess of the statutory interfund borrowing limitation and did not exceed the balances of the funds available for interfund borrowing.

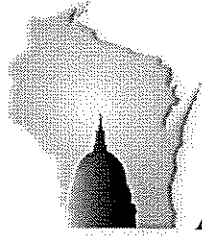
Mr. Donald J. Schneider  
Mr. Patrick Fuller  
Page 2 of 2  
January 31, 2003

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,



Marc J. Marotta  
Secretary



**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

**JIM DOYLE**  
GOVERNOR  
**MARC J. MAROTTA**  
SECRETARY

Office of the Secretary  
Post Office Box 7864  
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February 28, 2003

Mr. Donald J. Schneider, Chief Clerk  
Wisconsin Senate  
17 West Main Street, Suite 401  
Post Office Box 7882  
Madison, WI 53707-7882

Mr. Patrick Fuller, Chief Clerk  
Wisconsin Assembly  
17 West Main Street, Room 208  
Post Office Box 8952  
Madison, WI 53708-8952

Dear Mr. Schneider and Mr. Fuller:

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 January 2003.

On January 2, 2003, the **Wisconsin Health Education Loan Repayment Fund** cash balance closed at a negative \$2 thousand. The negative balance continued through January 31, 2003, when the fund cash balance closed at a negative \$5 thousand. The negative balance was due to the difference in the timing of revenues and expenditures. This fund's cash balance periodically falls negative due to the fact revenues are drawn only after expenditures are realized.

On January 23, 2003, the **Tobacco Control Fund** cash balance closed at a negative \$21 thousand. The negative balance continued through January 31, 2003, when the fund cash balance closed at a negative \$250 thousand. The negative balance was due to the delay of a statutory funding transfer, which has since been corrected.

On January 31, 2003, the **University Trust - Principal Fund** cash balance closed at a negative \$181 thousand. The negative balance was due to the miscoding of a transaction, which has since been corrected.

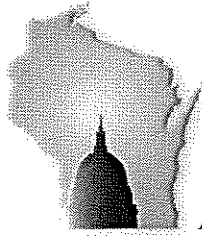
The Wisconsin Health Education Loan Repayment Fund, Tobacco Control Fund, and the University Trust - Principal Fund shortfalls were not in excess of the statutory interfund borrowing limitation and did not exceed the balances of the funds available for interfund borrowing.

Mr. Donald J. Schneider  
Mr. Patrick Fuller  
Page 2 of 2  
February 28, 2003

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,

Marc J. Marotta  
Secretary



**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

**JIM DOYLE**  
GOVERNOR

**MARC J. MAROTTA**  
SECRETARY

Office of the Secretary  
Post Office Box 7864  
Madison, WI 53707-7864  
Voice (608) 266-1741  
Fax (608) 267-3842  
TTY (608) 267-9629

June 30, 2003

Mr. Donald J. Schneider, Chief Clerk  
Wisconsin Senate  
17 West Main Street, Suite 401  
Post Office Box 7882  
Madison, WI 53707-7882

Mr. Patrick Fuller, Chief Clerk  
Wisconsin Assembly  
17 West Main Street, Room 208  
Post Office Box 8952  
Madison, WI 53708-8952

Dear Mr. Schneider and Mr. Fuller:

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 May 2003.

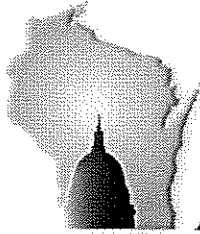
On May 30, 2003, the **Recycling Fund** cash balance closed at a negative \$3.4 million. The negative balance was due to the difference in the timing of revenues and expenditures.

The Recycling Fund shortfall was not in excess of the statutory interfund borrowing limitation 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,

Marc J. Marotta  
Secretary



**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

**JIM DOYLE**  
GOVERNOR

**MARC J. MAROTTA**  
SECRETARY

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Post Office Box 7864  
Madison, WI 53707-7864  
Voice (608) 266-1741  
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TTY (608) 267-9629

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August 4, 2003

Mr. Donald J. Schneider, Chief Clerk  
Wisconsin Senate  
17 West Main Street, Suite 401  
Post Office Box 7882  
Madison, WI 53707-7882

Mr. Patrick Fuller, Chief Clerk  
Wisconsin Assembly  
17 West Main Street, Room 208  
Post Office Box 8952  
Madison, WI 53708-8952

Dear Mr. Schneider and Mr. Fuller:

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 June 2003.

On June 1, 2003, the **Recycling Fund** cash balance closed at its monthly low of a negative \$3.4 million. The negative balance continued until June 30, 2003, when the balance closed at a positive \$3.0 million. The negative balance was due to the difference in the timing of revenues and expenditures.

On June 16, 2003, the **General Fund** cash balance closed at its monthly low of a negative \$735.4 million. The negative balance continued through June 30, 2003, when the balance closed at a negative \$301.1 million. The negative balance was due to the difference in the timing of revenues and expenditures.

The Recycling Fund and the General Fund shortfalls were not in excess of the statutory interfund borrowing limitation 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

Mr. Donald J. Schneider  
Mr. Patrick Fuller  
Page 2 of 2  
August 4, 2003

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,

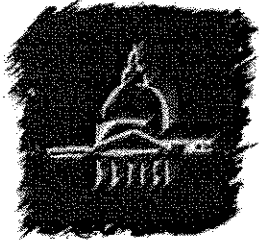
Marc J. Marotta  
Secretary

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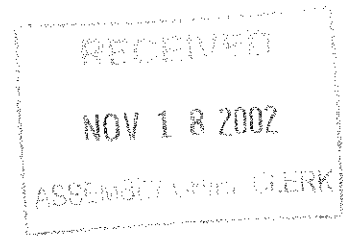


*END*





**SCOTT R. JENSEN**  
ASSEMBLY SPEAKER



November 15, 2002

The Honorable Patrick Fuller  
Assembly Assistant Chief Clerk  
[Patrick.Fuller@legis.state.wi.us](mailto:Patrick.Fuller@legis.state.wi.us)

Dear Assistant Chief Clerk,

As Assembly Speaker, I am directing you to serve notice of the following rules to the following committees at the request of the Joint Committee for Review of Administrative Rules:

1. ER ATCP 96 to the Committee on Agriculture.
2. ER DOC 328 to the Committee on Corrections & the Courts.
3. ER NR 10 and 45 to the Committee on Natural Resources.
4. ER WM-32-02 (E) to the Committee on Natural Resources.
5. NR 47.913 to the Committee on Natural Resources.
6. TAX 11.12 to the Committee on Ways & Means.

If you have any questions, please contact my legislative assistant, Adam Peer, in my office.

Sincerely,

Scott R. Jensen  
Assembly Speaker

cc: Jody Nussbaum, Assembly Records



P.O. Box 7882  
MADISON, WI 53707-7882  
(608) 266-2253

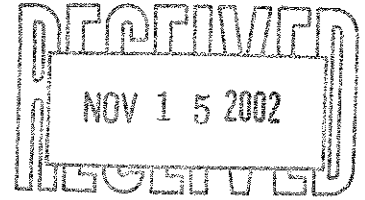
P.O. Box 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 8, 2002

The Honorable Fred Risser  
Senate President  
State Capitol Building, Room 220 South  
Madison, WI 53702

The Honorable Scott Jensen  
Assembly Speaker  
State Capitol Building, Room 211 West  
Madison, WI 53702



Dear President Risser and Speaker Jensen:

The Joint Committee for the Review of Administrative Rules met in Executive Session on November 7, 2002 and adopted the following motions:

**Emergency Rule ATCP 96, relating to milk producer security.**

EXTEND THE EFFECTIVE PERIOD OF EMERGENCY RULE ATCP 96 FOR 60 DAYS.

RECOMMENDED, Ayes 10, Noes 0, Absent 0

Ayes: (10) Senators Robson, Grobschmidt, Hansen, Cowles, Welch,  
Representatives Grothman, Seratti, Gunderson, Turner and  
Hebl.

Noes: (0) None.

Absent: (0) None.

**Emergency Rule Doc 328, relating to adult field supervision.**

EXTEND THE EFFECTIVE PERIOD OF EMERGENCY RULE ATCP 96 FOR 2 DAYS AT  
THE REQUEST OF THE DEPARTMENT OF CORRECTIONS RECOMMENDED,

Ayes 10, Noes 0, Absent 0

Ayes: (10) Senators Robson, Grobschmidt, Hansen, Cowles, Welch,  
Representatives Grothman, Seratti, Gunderson, Turner and  
Hebl.

Noes: (0) None.

Absent: (0) None.

**Emergency Rule NR 10 and 45, relating to the control and management of Chronic Wasting  
Disease.**

EXTEND THE EFFECTIVE PERIOD OF EMERGENCY RULE DNR 10 AND 45 IN ITS  
ENTIRETY UNTIL APRIL 1, 2003. RECOMMENDED, Ayes 10, Noes 0, Absent 0

Ayes: (10) Senators Robson, Grobschmidt, Hansen, Cowles, Welch,  
Representatives Grothman, Seratti, Gunderson, Turner and  
Hebl.

Noes: (0) None.

Absent: (0) None.

**Emergency Rule WM-32-02 (E), relating to the control and management of chronic wasting disease.**

THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES REQUESTS THAT THE DEPARTMENT OF NATURAL RESOURCES MODIFY ITS EMERGENCY RULE, WM-32-02 (E), RELATING TO THE CONTROL AND MANAGEMENT OF CHRONIC WASTING DISEASE, TO PROHIBIT THE REMOVAL OF A DEER CARCASS FROM A CWD ERADICATION ZONE. RECOMMENDED, Ayes 10, Noes 0, Absent 0

Ayes: (10) Senators Robson, Grobschmidt, Hansen, Cowles, Welch,  
Representatives Grothman, Seratti, Gunderson, Turner and  
Hebl.

Noes: (0) None.

Absent: (0) None.

**NR 47.913 (a), relating to Gypsy Moth suppression.**

1. THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES, PURSUANT TO SS. 227.19(4)(D) 6. AND 227.26(2)(D), STATS., SUSPENDS THE FOLLOWING TWO PORTIONS OF S. NR 47.913(2)(A):

A. "40 CONTIGUOUS ACRES IN A COMPACT AND REGULAR SHAPE OR BE OF AT LEAST".

B. "OF PUBLICLY OWNED LAND SURROUNDED BY INELIGIBLE LAND".

[THE ACTION OF THE JOINT COMMITTEE PROVIDES THAT S. NR 47.913(2)(A) WILL READ: "BE OF AT LEAST 20 ACRES."]

2. THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES, PURSUANT TO S. 227.26(2)(F) AND (J), STATS., INTRODUCES BILLS IN EACH HOUSE OF THE LEGISLATURE TO PROVIDE THAT, TO BE ELIGIBLE FOR COST SHARING UNDER THE GYPSY MOTH SUPPRESSION PROGRAM, A PROPOSED TREATMENT BLOCK, AMONG OTHER THINGS, MUST BE OF AT LEAST 20 ACRES. RECOMMENDED, Ayes 10, Noes 0, Absent 0

Ayes: (10) Senators Robson, Grobschmidt, Hansen, Cowles, Welch,  
Representatives Grothman, Seratti, Gunderson, Turner and  
Hebl.

Noes: (0) None.

Absent: (0) None.

**TAX 11.12 (7) a, relating to taxation of game birds.**

1. THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES, PURSUANT TO SS. 227.19(4)(D) 5. AND 6. AND 227.26(2)(D), STATS., SUSPENDS S. TAX 11.12(7)(A).
  
2. THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES, PURSUANT TO S. 227.26(2)(F) AND (J), STATS., INTRODUCES BILLS IN EACH HOUSE OF THE LEGISLATURE TO EXEMPT FROM THE IMPOSITION OF THE STATE SALES OR USE TAX THE SALE OF GAMEBIRDS TO GAME FARMS OR CLUBS.  
RECOMMENDED, Ayes 10, Noes 0, Absent 0


Ayes: (10) Senators Robson, Grobschmidt, Hansen, Cowles, Welch,  
Representatives Grothman, Seratti, Gunderson, Turner and  
Hebl.

Noes: (0) None.

Absent: (0) None.

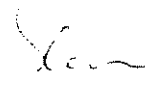
Pursuant to s. 227.24(2)(c), stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to this emergency rule.

Sincerely,



Senator Judith B. Robson  
Senate Co-Chair

JBR:GSG:jss



Representative Glenn Grothman  
Assembly Co-Chair


**NOTICE OF ACCESS TO  
ASSEMBLY COMMITTEE RECORDS**

**ASSEMBLY COMMITTEE ON WAYS AND MEANS  
ROOM 103 WEST, STATE CAPITOL**

The office of the Chairperson of a legislative committee is responsible for the maintenance of committee records such as reports, petitions, written statements and hearing notices.

The office of the Committee Chairperson is open for business and inspection of committee records from 8:00am to 5:00pm, Monday through Friday, excluding holidays.

The legal custodian is the Committee Chairperson Representative Michael Lehman. A request for access to, or copies of, records of the Committee may be made at any time during normal business hours.

  
\_\_\_\_\_  
Representative Michael Lehman  
58<sup>th</sup> Assembly District

# States' Tax Plan Could Backfire

## As Levies on Corporations Are Cut, the Incentives Lose Their Advantage

BY ROBERT GAVIN

Staff Reporter of THE WALL STREET JOURNAL

**I**N THE ECONOMIC arms race to attract and retain high-wage manufacturing jobs, states appear to be shooting themselves in the foot.

The self-inflicted wounds result from a key weapon of choice: the formula that determines how much corporations pay in state income taxes. By manipulating that formula, economic-development officials can offer tax breaks worth tens of millions of dollars to entice companies to locate, expand or simply stay put in their state.

Specifically, many states are promising companies that they will give more weight to sales—over property and payroll—when determining state taxes. That can be a huge benefit to companies such as manufacturers that produce locally but sell out of state. Legislation to re-weight tax formulas is pending in at least five states—New York, New Hampshire, Maryland, Minnesota and Oregon. And business interests in at least five other states are lobbying for similar proposals.

### Race to the Bottom

But as more states pass such legislation, other states will be compelled to do the same, say tax experts and economists. And what will emerge, they say, is a classic race to the bottom, in which states compete with tit-for-tat responses until nearly all impose the same low level of tax liability. At that point, the economic advantage of lowering corporate taxes vanishes, leaving as the ultimate winner the companies that pocketed millions in tax breaks. "Everyone is racing to get there first, but once everybody gets there, the benefits go away," says Austan Goolsbee, a University of Chicago business professor who studies the economic impact of state tax policies.

That's already beginning to happen in the manufacturing-heavy Midwest and Northeast. Michigan made the first big adjustment to its corporate-income-tax formula in 1998 (estimated tax break: \$68 million annually); Illinois followed in 1999 (tax cut: \$95 million a year); and now Minnesota lawmakers are considering similar legislation, estimated to reduce corporate-tax revenues by up to \$64 million a year.

In the Northeast, Massachusetts completed its phase-in of a tax formula favorable to manufacturers last year; Connecticut put that same formula into effect this year; and Gov. George Pataki has proposed that New York do it this year, too.

Meanwhile in the West, Oregon law-

### Self-Defeating?

As more states woo employers with tax formulas like the 'single sales factor,' which benefits manufacturers, the incentives become less of a competitive edge and more of a drain. Here is the estimated loss in tax revenue for several states that have enacted or proposed such cuts:

States that adopted cut	Year	Estimated annual loss
Massachusetts	1996	\$100 million
Illinois	1999	95 million
Connecticut	2001	15-25 million

States considering cut	Estimated annual loss
Oregon	\$57-65 million
Minnesota	52-64 million
New York	34 million

Sources: State, legislative revenue offices

makers, who saw their corporate-tax-formula bill vetoed by Gov. John Kitzhaber in the past legislative session, are trying again this year, all the while watching California. There, manufacturing, technology, resource-extraction and entertainment firms are forming a coalition to seek the same advantageous tax treatment in the Golden State. "California has to protect its businesses that are based here," says Eric Miethke, the lobbyist representing the still-forming business coalition.

To understand how all this tinkering works, start with the traditional corporate-income-tax formula: Companies that operate in multiple states would pay taxes based on the amount of property, payroll and sales they have in each state. A company with 80% of its property and payroll in a state, but only 50% of sales, would add that up and divide by three. Thus 70% of the company's total income would be considered in-state and would be taxed.

Many states have switched to a "double-weighted sales" formula over the years. Under that method, corporations would count sales twice, and then divide by four. The company in the above example would thus pay state taxes on just 65% of income. North Carolina's 1988 change to double-weighted sales produced a tax cut of more than \$50 million a year.

Now the trend appears headed to its logical conclusion: the "single sales factor" formula, which determines a state's portion of income based solely on in-state sales. With that method, the same hypothetical company would pay state taxes on just 50% of income. Most of the current efforts to rejigger corporate-tax formulas involve using sales alone.

Proponents say the single sales factor is good for economic growth because it eliminates the disincentive to corporate investment inherent in the traditional for-

mula—namely that companies increase their tax liability whenever they expand facilities or employment. Increasingly, they also argue that their states must make the change, or risk losing jobs to other states that have.

"If you make your big home industries less than competitive, they won't stay to grow and expand," says James Haney, president of Wisconsin Manufacturers and Commerce, a Madison-based business lobby trying to revive single-sales-factor legislation that failed last year.

Indeed, research by the University of Chicago's Mr. Goolsbee supports such arguments. He estimates that New York could, by adopting a single sales factor, add some 32,000 manufacturing jobs and generate more than enough new personal-income-tax revenue to offset the \$34 million loss in corporate-tax collections.

But there is a dark side to these gains: Other states feel compelled to respond in kind to neutralize the advantage. "Any one state clearly doesn't want to do nothing," Mr. Goolsbee says.

### Short-Sighted?

Critics say the inevitable response means states are giving out millions for what at best are short-term advantages. Michael Mazerov, a senior analyst at the Center for Budget and Policy Priorities, a Washington, D.C., think tank, says he sees little evidence that the single sales factor has much impact against broader economic trends that are causing manufacturing payrolls to shrink. Illinois, he notes, has lost nearly 20,000 manufacturing jobs since moving to a single sales factor two years ago, and Massachusetts has shed more than 15,000 since it began phasing in the system in 1996.

Now, some companies are seeking additional tax advantages by lobbying for tax systems that benefit them most in each state in which they operate. For example, Kraft Foods, based in Northgate, Ill., supported a single sales factor in its home state, which was enacted in 1998. But Kraft, a unit of Philip Morris Cos., is opposing the same system in Maryland, where it would have to pay more taxes because it has a higher proportion of sales.

"A corporation's duty is to maximize profits for its shareholders," says Doug Lindholm, executive director of the Committee on State Taxation, an industry-funded Washington, D.C., nonprofit, to whom Kraft referred questions.

But is that fair? Dan Bucks, executive director of the Multistate Tax Commission, a Washington, D.C., group that recommends interstate tax policies, says such differences in tax systems mean companies can plan their operations so that only a portion of their income is subject to state income taxes. "The ordinary wage earner," Mr. Bucks notes, "is expected to be liable for 100% of [his or her] income."



# WISCONSIN ASSEMBLY CHIEF CLERK

**JOHN A. SCOCOS**

*P.O. Box 8952  
1 E. Main Street, Suite 402  
Madison, WI 53708-8952*

*608-266-1501 or 608-267-4355*

*Fax: 608-266-5617*

*E-mail: john.scocos@legis.state.wi.us*

**DATE:** February 21, 2001  
**TO:** Committee Chair Offices  
**FROM:** John A. Scocos, Assembly Chief Clerk  
**SUBJECT:** Committee Expenditures and Provisions

The Assembly Chief Clerk's office has received a number of inquiries recently relative to what Committee expenditures are covered by Assembly operations and what are office account deductions. This memo should answer many of your questions and assist you in planning your upcoming committee hearings.

## **COMMITTEE PROVISIONS**

- 1) Committee Chairs employ two staff – a Research Assistant and a Legislative Assistant.
- 2) Committee Chairs are provided a Committee copy card and a District copy card. The Committee card is used for copying items relative to the operation of the committee.
- 3) Committee Chairs, along with leadership and the ranking minority member of a committee, receive 2500 pieces of letterhead and #10 envelopes from the Assembly general fund. This stationery is provided only once during the two year Session and only once per member, not per committee. Reorders after the initial 2500 will be office account deductions.
- 3) From time to time, Committee chairs may have a need for printing, photocopying, postage, and stationery may be utilized to reply to unsolicited correspondence regarding proposals and issues before the committee. Approval must be obtained from the Assembly Chief Clerk for these expenditures. These expenditures are not charged against the Committee Chair's district account, they are recorded as committee expenditures and paid out of Assembly operations.

- 4) The rental of audio-visual equipment and meeting rooms, as well as use of fleet autos or vans for direct services to the committee as a whole or by the Chair to facilitate the hearing process must receive prior approval by the Assembly Chief Clerk. These expenditures are not charged against the Committee Chair's district account, they are recorded as committee expenditures and paid out of Assembly operations.

## **COMMITTEE TRAVEL**

If a committee chairperson schedules a hearing outside of Madison, a blue Committee Travel Request Form should be submitted to the Assembly Chief Clerk for approval. Approval of the Committee Travel form approves travel for all committee members, committee staff person and a messenger. It is not necessary for individual committee members to submit travel approval forms.

There is no office account deduction for individual committee members' travel.

Below are some examples when reimbursement may or may not be claimed for Committee travel:

- **While in Madison:** You may claim per diem AND mileage from Madison to the city where the committee meeting will be held, BUT YOU MAY NOT CLAIM MEALS OR LODGING.
- **While in District:** You may not claim per diem when you travel to and from committee hearings from your home, BUT YOU MAY CLAIM MILEAGE, MEALS AND LODGING.
- **In District Reimbursement:** No in-district mileage will be allowed on a day for which per diem is claimed.

Also, if you are working in Madison for the day and travel from Madison to a conference or meeting later that day, you may either claim per diem for your day in Madison OR the lodging/meal expenses that night. You may not claim both.

Remember, per diem is reimbursement for your lodging and meals while working in your Madison office.

These Committee Chair provisions will be added to the Assembly Policy Manual to be republished this summer.

I hope this information has been helpful. If you have any questions about committee expenditures or provisions not covered in this memo, please contact me at 267-4355. Thank you.

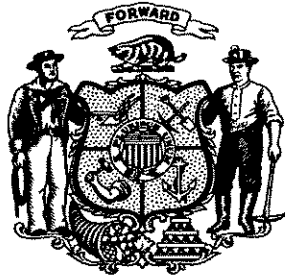


*Jan*

State of Wisconsin  
JOINT LEGISLATIVE COUNCIL

Senate Co-Chair  
**FRED A. RISSER**  
President, State Senate

Assembly Co-Chair  
**KITTY RHOADES**  
Representative, State Assembly



**LEGISLATIVE COUNCIL STAFF**  
*Terry C. Anderson, Director*

One East Main Street, Suite 401  
P.O. Box 2536  
Madison, WI 53701-2536  
Telephone: (608) 266-1304  
Fax: (608) 266-3830  
Email: [leg.council@legis.state.wi.us](mailto:leg.council@legis.state.wi.us)

January 16, 2001

Representative Michael A. Lehman, Chair  
Assembly Ways and Means Committee  
Room 103 West, State Capitol  
Madison, WI 53702

Dear Representative Lehman:

I hope the New Year and legislative biennium are off to a good start for you. Now that committee schedules have been established, I am able to assign Legislative Council staff members to each standing committee.

Bill Ford will be assigned to the Assembly Ways and Means Committee. In addition to the normal staff assistance, the Legislative Council will be adding an additional service this year. Bill will prepare an Amendment Memo explaining the effects of each successful amendment to bills in your committee's subject areas. Examples of these memos are enclosed. These memos will be posted on our web site as soon as possible after they are completed.

Best of luck with your committee. I know Bill will provide excellent assistance to your committee. If you have any questions or concerns, please contact me.

Sincerely,

Terry C. Anderson  
Director

Enclosures



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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**1999 AB 664**

**Assembly  
Amendment 1**

**Memo published: February 2, 2000**

**Contact: Don Dyke, Senior Staff Attorney (266-0292)**

*Current law* provides that a handgun purchaser who intentionally fails to provide truthful information on the Department of Justice handgun transfer form shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than nine months (a misdemeanor). [s. 175.35 (3) (a), Stats.]

*Assembly Bill 664*, among other things, increases the maximum imprisonment period for intentionally providing false information to five years (making the crime a felony); the bill retains the minimum and maximum fine for a violation. Thus, under the bill, a violator shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than five years.

*Assembly Amendment 1* limits the imposition of the felony under the bill to intentionally providing false information in response to the question on the handgun transfer form that relates to straw purchasing. That question is set forth on page 3, lines 4 to 6 of the bill: "Are you purchasing this firearm with the purpose or intent of transferring it to a person who is presently prohibited from possessing a firearm under state or federal law?" Intentionally providing false information in connection with other aspects of the handgun transfer form is punishable under the amendment by the current misdemeanor penalty.

Passage of Assembly Amendment 1 recommended by Assembly Committee on Judiciary and Personal Privacy, 9 Ayes, 0 Noes, February 1, 2000.



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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**1999 AB 700**

**Senate Amendments 1,  
2 and 3**

**Memo published: March 6, 2000**

**Contact: Robert Conlin, Senior Staff Attorney (266-2298)**

**SENATE AMENDMENT 1**

Under *current law*, an elector voting absentee must swear an affidavit or complete a certification indicating that the elector is qualified to vote the absentee ballot and that the elector has voted the absentee ballot in the manner prescribed by law. Any elector who swears an affidavit must do so before a person who is authorized to administer oaths. Any elector who completes a certification must do so before two witnesses. Under current law, the witnesses for any overseas or military elector must be adult U.S. citizens.

As introduced, *Assembly Bill 700* deleted the requirement of current law that an elector voting absentee must complete a certification before two witnesses or swear an affidavit and, instead, require an elector to complete a certification before one witness. Under the bill, as introduced, for any overseas or military elector, this witness must be an adult U.S. citizen. Subsequently, the Assembly amended the bill and *1999 Engrossed Assembly Bill 700* retains current law with respect to the authentication of absentee ballots.

*Senate Amendment 1* restores the provisions of the original bill which deleted the requirement of current law that an elector voting absentee must complete a certification before two witnesses or swear an affidavit and, instead, requires an elector to complete a certification before one witness. Under the amendment, for any overseas or military elector, this witness must be an adult U.S. citizen.

Senate Amendment 1 adopted by Senate, Ayes, ; Noes, ; March 7, 2000.

**SENATE AMENDMENT 2**

Under *current law*, any person other than a candidate may be present at a polling place for purposes of observation, provided that the person is not disruptive and does not engage in electioneering. *1999 Engrossed Assembly Bill 700* permits the chief inspector (poll worker) at each

polling place to reasonably limit the number of persons representing the same organization who are permitted to observe at the polling place at the same time.

*Senate Amendment 2* deletes the authority of the chief inspector at a polling place to reasonably limit the number of observers representing the same organization and instead authorizes the chief inspector to limit the number of such observers to one per organization, or if the polling place serves combined wards, to one per organization for each of the combined wards.

Senate Amendment 2 adopted by Senate by voice vote, March 7, 2000.

### **SENATE AMENDMENT 3**

Under *current law*, the governing body of a municipality may combine two or more wards for voting purposes to facilitate using a common polling place. However, with certain exceptions, every municipality having a population of 35,000 or more is required to maintain separate election returns for each ward so combined. 1999 Engrossed Assembly Bill 700 changes the population threshold so that only municipalities with a population of 50,000 or more are required to maintain separate election returns for each ward so combined.

*Senate Amendment 3* amends the bill to restore the population limit of 35,000 that is provided under current law.

Senate Amendment 3 adopted by Senate by voice vote, March 7, 2000.

WISCONSIN STATE LEGISLATURE

REPRESENTATIVE MICHAEL "Mickey" LEHMAN  
STATE CAPITOL, 103 WEST  
P. O. BOX 8952  
MADISON, WI 53708

Telephone: (608) 267-2367

Fax: (608) 282-3658

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REPRESENTATIVE LEHMAN'S OFFICE (608) 267-2367.

PLEASE DELIVER TO:

Chad Taylor

FAX NUMBER OF ADDRESSEE:

283-2275

FROM:

Andrew Nowlan - Rep. M. Lehman

MESSAGE:

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## JOURNAL OF THE ASSEMBLY [December 30, 1997]

**Assembly Bill 227**

Relating to: the use of a person's social security number or her student identification number.

Assembly substitute amendment 1 adoption:

Ayes: 11 - Representatives Kreibich, Underheim, Ward, Hutchison, Kelso, Olsen, Hanson, Boyle, Reynolds, Murat and Plouff.  
Noes: 0.

Passage as amended:

Ayes: 11 - Representatives Kreibich, Underheim, Ward, Hutchison, Kelso, Olsen, Hanson, Boyle, Reynolds, Murat and Plouff.  
Noes: 0.

To joint committee on Finance.

**Assembly Bill 595**

Relating to: the college tuition prepayment program.

Passage:

Ayes: 11 - Representatives Kreibich, Underheim, Ward, Hutchison, Kelso, Olsen, Hanson, Boyle, Reynolds, Murat and Plouff.  
Noes: 0.

To committee on Rules.

**Senate Bill 107**

Relating to: the term of the student member of the state technical college board.

Concurrence:

Ayes: 11 - Representatives Kreibich, Underheim, Ward, Hutchison, Kelso, Olsen, Hanson, Boyle, Reynolds, Murat and Plouff.  
Noes: 0.

To committee on Rules.

**Senate Bill 288**

Relating to: changing the name of the 2-year campuses in the University of Wisconsin System.

Concurrence:

Ayes: 11 - Representatives Kreibich, Underheim, Ward, Hutchison, Kelso, Olsen, Hanson, Boyle, Reynolds, Murat and Plouff.  
Noes: 0.

To committee on Rules.

**ROB KREIBICH**  
Chairperson  
Committee on Colleges and Universities

The committee on Financial Institutions reports and recommends:

**Assembly Bill 579**

Relating to: creating a certified capital company program for companies that make certain types of investments,

providing tax credits to persons who make certain investments in certified capital corporations, granting rule-making authority and making an appropriation.

Assembly amendment 1 adoption:

Ayes: 14 - Representatives Ward, Hoven, Green, Lazich, Foti, Kedzie, Sykora, R. Potter, Travis, La Fave, Meyer, Morris-Tatum, Murat and Plale.  
Noes: 0.

Assembly amendment 2 adoption:

Ayes: 14 - Representatives Ward, Hoven, Green, Lazich, Foti, Kedzie, Sykora, R. Potter, Travis, La Fave, Meyer, Morris-Tatum, Murat and Plale.  
Noes: 0.

Passage as amended:

Ayes: 14 - Representatives Ward, Hoven, Green, Lazich, Foti, Kedzie, Sykora, R. Potter, Travis, La Fave, Meyer, Morris-Tatum, Murat and Plale.  
Noes: 0.

To joint committee on Finance.

**DAVID WARD**  
Chairperson  
Committee on Financial Institutions

The joint survey committee on Tax Exemptions reports and recommends:

**Assembly Bill 607**

Relating to: narrowing the property tax exemption for nonprofit medical research foundations.

Adoption of Report:

Ayes: 5 - Representative Urban; Senators Wineke and Farrow; and Mr. Vrakas and Mr. Lee.  
Noes: 3 - Representatives Foti and Schneider, and Ms. Secretary Zeuske.

To committee on Ways and Means.

**Assembly Bill 650**

Relating to: restrictions on payment for abortions with public funds; changing the prohibition on use of federal, state or local funds for abortion-related activities by a pregnancy program, project or service; exempting the sales of flex-time time-share property from the sales tax and imposing the real estate transfer fee on all sales of time-share property; the penalty provision for premature sales or transfers of business assets or assets used in farming that were received from family members; pregnancy as a preexisting condition; transfers from the segregated transportation fund to the segregated transportation infrastructure loan fund, and the transportation infrastructure loan program; changing conflict of interest provisions and lottery participation restrictions that affect certain employes of the department of revenue; the indexing of the mining tax; criminal history and abuse record searches of persons applying to the department of health and family services for a license, certification or registration to operate certain entities that care for children or adults and of employes, prospective employes, adult residents and

**STATE OF WISCONSIN****REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS****1997 ASSEMBLY BILL 607**

[Introduced by Representatives Springer, Albers, F. Lasee, R. Young, Bock and J. Lehman; cosponsored by Senators Decker and Wineke.]

**General Nature of Proposal**

Under current law, property owned and operated by a nonprofit corporation, voluntary association, foundation or trust that has received a certificate under s. 501 (c) (3) of the U.S. Internal Revenue Code is exempt from property taxation if it meets the following conditions:

1. The property is used exclusively for the purposes of medical and surgical research to treat human diseases;
2. The property is used to provide instruction for practicing physicians and surgeons promoting education, training, skill and investigative ability of physicians, scientists and individuals engaged in work in the basic sciences which bear on medicine and surgery; or
3. The property is used to provide diagnostic facilities and treatment for deserving destitute individuals not eligible for assistance from charitable or governmental institutions. [s. 70.11 (25), Stats.]

Under this Bill, if property that is used for one or more of the three exempt purposes described above and that is owned by a nonprofit foundation that operates at more than one location, the exemption under s. 70.11 (25), Stats., only applies to the foundation's central facility where data are received, aggregated and analyzed.

**Legality Involved**

There are no questions of legality involved.

**Fiscal Effect Upon the State and Its Subdivisions**

The Department of Revenue estimates the fiscal effect of this Bill as follows:

Under current law, property owned by a nonprofit 501(c)(3) organization and used for medical research, education, training or for the treatment of destitute individuals is exempt from taxation. The bill limits this exemption to an organization's central facility where

- 2 -

data is received, aggregated and analyzed; satellite facilities owned by the organization would become taxable.

The Department is aware of one organization in the state that would be affected by the bill. In addition to its main headquarters, valued at approximately \$60 million, the organization owns at least 11 satellite clinics. Six of these are exempt from property taxes, and four are taxable. The 1998 tax status of a recently acquired facility in the City of Wausau has not been determined; it is taxable for 1997.

Based on 1996 Property Tax Exemption Reports and discussions with local assessors, it is assumed that the 1996 taxable value of the six exempt satellite clinics would have been \$12 million. Using the 1996/97 statewide average net tax rate of \$22.63 per \$1,000 of full value, the bill would have resulted in a shift of approximately \$272,000 in property taxes from other property owners to the six facilities had the bill been in effect in 1996 [ $\$12 \text{ million} \times .02263$ ]. The property located in the City of Wausau, valued at approximately \$10 million, would remain taxable as a result of the bill.

It is likely that the bill would result in the loss of payments in lieu of property taxes of approximately \$107,000 made by five satellite clinics to taxing jurisdictions.

The bill would increase state forestry tax revenues by \$2,400 [ $\$12 \text{ million} \times .0002$ ].

To the extent that these facilities could be exempt under other statutory provisions, e.g., as property of educational or benevolent organizations, the effect of the bill would be mitigated.

#### **Public Policy Involved**

This Bill is good public policy. However, the Joint Survey Committee on Tax Exemptions recommends that the Bill be amended to provide that the exemption from property taxation provided under s. 70.11 (25), Stats., does not apply to property used for commercial purposes or as a doctor's office.

12/17/97

**JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS**



# Ways and Means

## Rules and Procedures

### Legislation-

- Schedule meetings between the chairman and the ranking member to determine if a consensus is present on some legislation within the committee.
- When scheduling a committee hearing or executive session, contact the authors to confirm that they do in fact want their legislation to receive further action. If the author does not want the legislation to receive any further action, make sure that you have that in writing from the author.
- Contact both sides of an issue before the committee.
- Contact Leg. Council to see if they are aware of any potential problems with the legislation or if they are aware of past action on similar legislation.

### Hearings-

- Schedule reasonable amount of time for a hearing. Try to avoid scheduling all day committee meetings. Keep the committee meetings shorter, for example 9am to noon. This will help to keep the members more attentive and interested.
- Avoid scheduling hearings on the same day as a scheduled floor period. The exception to this can be an early morning executive session.
- Do not schedule a committee meeting at the end of a floor period.
- If at all possible, hold executive sessions and public hearings on separate days. In addition, only in an absolute emergency hold an executive session and a public hearing on the same piece of legislation on the same day.
- Holding executives sessions on separate days allows for amendments to be drafted prior to exec. In addition, allow for flexibility in the introduction of amendments during executive sessions.
- Limit time for testimony.
- If a person testifying has written testimony, ask if they would condense their spoken testimony and have copies of the written testimony distributed to the committee members.

However, if the person testifying is uncomfortable doing this, allow them to read their testimony.

- When possible, alternate between those who are appearing for and against the legislation before the committee.
- Make a point that testimony should be kept to the issue being considered by the committee. Testimony may be related to the overall situation but not germane to the issue being considered by the committee.
- Keep the committee members themselves focused on the issue at hand. Do not let committee members become involved in debates or arguments with those who are testifying.
- Notify those who will be testifying before the committee not to repeat information given by those who have testified previously.



Michael (Mickey)  
**Lehman**

State Representative

58th Assembly District

Committee Chair: Ways and Means

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## Memorandum

To: Members, Assembly Ways and Means Committee

From: Rep. Mickey Lehman, Chair

Date: January 18<sup>th</sup>, 2001

Re: Committee Policies

Attached to this memo please find a copy of the Policies and Procedures for the Ways and Means Committee for the 2001 Session. These policies and procedures are largely unchanged from last session. For members new to the Committee, please pay special attention to the policies regarding attendance and amendments.

If you have any questions regarding these policies or procedures or about any other aspect of the Ways and Means Committee, please do not hesitate to give me or Andrew Nowlan, the Ways and Means Committee Clerk, a call at 267-2367.



**Assembly Committee on**  
**Ways and Means**  
***Policies and Procedures***

**(1) COMMITTEE MEETINGS:**

- (A) The Assembly Committee on Ways and Means regularly meets in Room 415NW of the State Capitol. The Committee's regular meeting day is even Wednesdays. The standard starting time for Committee meetings this session will be 9:30 am. This should allow all members to be on time to meetings. The Chair will make every attempt to start the Committee proceedings promptly at 9:30 am.
- (B) Legislation before the Committee will not receive a public hearing and executive action on the same day except in extreme situations.

**(2) ATTENDANCE:**

- (A) No distinction between an excused absence and unexcused absence will be made in the Committee Record or the official attendance sheet reported to the Assembly Chief Clerk, as the Chief Clerk makes no such distinction. A distinction WILL be made in the Committee files.
- (B) The Roll for attendance at public hearings will be held open until the adjournment of the hearing. *Members arriving late should check with the Chair or Clerk to ensure their attendance is noted.*
- (C) The Roll for attendance at executive sessions will be held open until the adjournment of the hearing. *Members arriving late should check with the Chair or Clerk to ensure their attendance is noted.* Members will not be allowed to vote on motions before the Committee once the roll is closed. The official record can reflect how the member would have voted had he/she been present for the Executive Session but their vote will not affect the recommendation of the Committee.

**(3) AMENDMENTS:**

(A) The Committee on Ways & Means will utilize a 24-Hour policy regarding the consideration of amendments to legislation to receive executive action before the Committee. Only in extreme situations may an exception be made. Legislation that has been available to the Committee for consideration for any length of time will not qualify for an exception.

(B) Amendments must be in written form, having been prepared by the LRB, to be considered by the committee.

**(4) PUBLIC HEARINGS:**

(A) The Chair may impose a 5 minute limit on testimony by speakers before the committee. Latitude regarding this policy may be given at the Chair's discretion, especially to primary authors or agency staff. However, with the Committee having its available meeting dates cut in half, it is more likely this limit will be enforced.

(B) If a speaker before the Committee has written testimony, the preference will be for the speaker to summarize the written testimony and to make available the written comments for copies to be distributed to Committee members.

**(5) PER DIEM SLIPS:**

Per Diem Slips of non-members will only be accepted if the Chair or Clerk is made aware of and can confirm the attendance of the non-member.

**\*The Chairman of Ways & Means reserves the right to make modifications to these Policies and Procedures.**

Committee

Chair / Co-Chairs

M. Lehman

Leg Council

Clerk

Wood

Ainsworth

Ziegelbauer

Jeskewitz

Morris-Tatum

Lasee

Pocan

Starzyk

Turner

Sykora

Owens

Olsen

Public Speakers

Messenger



# WISCONSIN ASSEMBLY CHIEF CLERK

*Handwritten signature or initials.*

**JOHN A. SCOCOS**

P.O. Box 8952  
1 E. Main Street, Suite 402  
Madison, WI 53708-8952  
608-266-1501 or 608-267-4355  
Fax: 608-266-5617  
E-mail: john.scocos@legis.state.wi.us

TO: All Assembly Members and Staff  
FROM: ~~John A. Scocos~~, Assembly Chief Clerk  
DATE: January 24, 2001

Recently this office has had a number of requests pertaining to the Open Records Law. The Open Records Law establishes procedures for designating legal custodians of government records and regulates inspection and copying of those records.

Each Legislator is automatically the custodian of their records, unless an office staff member is designated. The Assembly Chief Clerk's office serves as the central administrative office for all personnel, purchasing and accounting functions of the Wisconsin State Assembly. Also, the office is the records center for all bills, resolutions and other documents pertaining to legislation, which by law or rule are made a permanent record of the legislative session.

The Assembly Chief Clerk's office will respond as soon as practicable and without delay under the law usually within twenty-four hours to the request being made. The office is open for business and inspection of records from 8:00 A.M. to 5:00 P.M. Monday through Friday, excluding holidays.

The legal custodian is John A. Scocos, Assembly Chief Clerk. Requests for access to, or copies of records of the Chief Clerk's office may be made at any time during normal business hours. Attached is an information memorandum the **Memorandum on Functions of the Legislature: Responding to Public Records Requests, dated December 28, 2000**

The cost for copying documents is \$0.10 per page.

If you have further questions please contact me at 267-4355.



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## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

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### Functions of the Legislature: Responding to Public Records Requests

#### INTRODUCTION

Much of the material in a legislator's office or kept by a legislator qualifies as a public "record" under Wisconsin's Open Records Law [ss. 19.31 to 19.39, Stats.]. Therefore, this material is required by law to be available for inspection and copying by members of the public, including the news media.

As an example, correspondence from and to a constituent is a public record and generally is open to inspection. Although personal correspondence between individuals is usually thought to be private, legislators are public officials and correspondence with them is public, unless the Open Records Law provides a reason to deny access.

The general rule under the Open Records Law is that all records held by a legislator are open to the public unless a specific provision in the law allows the records to be kept confidential. This rule embodies the public policy of the state that all persons should have the greatest possible information about the decisions and activities of state and local government. In practice, very few requests to inspect or copy records are denied.

The purpose of this memorandum is to set forth the steps by which a legislator may deal with a request to inspect records in his or her office.

Note, however, that a decision to deny access to a record should be made very carefully, since it most likely will be challenged--in court, in the news media or in partisan debate.

Not only are decisions to deny access to records legally and politically sensitive, but the law on public records is complex and difficult to apply in specific instances. This memorandum describes the statutes that constitute the Open Records Law. In addition to the statutes, the Wisconsin courts have interpreted and applied the Open Records Law in a number of cases. The statutes and cases constitute the legal basis for decisions to release or deny access to records.

The Open Records Law and the court cases are technical and do not provide a straightforward guide to decisions on record requests. This memorandum describes the statute in plain language, but even this memorandum cannot fully guide a legislator's decisions in the variety of situations that may arise.

Legislators are strongly advised, prior to responding to a request to inspect records, to seek additional advice beyond that set out below. Legislative leaders can provide pragmatic and political advice. Legislative Council Staff can provide legal advice.



### **CLARIFY, IN ADVANCE, WHO IS THE "CUSTODIAN" OF THE OFFICE'S RECORDS**

The custodian is the person who responds to a request to inspect records. Each legislator is automatically the custodian of his or her records, unless an office staff member is designated as custodian. A legislator and his or her staff should have a clear understanding of who makes the decisions when responding to a request to inspect records.

In most cases, it appears preferable that a legislator retain the role of custodian of his or her records, since the legislator is the person directly affected by an inappropriate release of records. Note, however, that in the event that a request is made during a period of time that a legislator is unavailable (e.g., a vacation), action on the request will be delayed. The law makes no provision for appointment of a temporary custodian under such circumstances.

### **RESPOND REASONABLY PROMPTLY TO A REQUEST**

A response to a record request must be made "as soon as practicable and without delay" under the law. In practical terms, a custodian may need some amount of time to retrieve and inspect the record before formulating a response. However, a prompt response, such as immediately, within the hour or within 24 hours, is desirable.

The response to a request for a record is either: (1) to provide the record; or (2) to deny the request, in whole or in part. If a written request is denied, the reasons for the denial must be given in writing.

### **RESPOND TO A REQUEST IN KIND**

If the request is made orally, and is going to be denied, the denial may be made orally. If a requester who was orally denied a request later

demands a written statement of denial, and the demand is made within five business days of the oral denial, the written statement must be provided.

If a request is made in writing, the response must be in writing giving the reasons for the denial. Written responses to written requests must include this statement--"This denial is subject to review by mandamus under s. 19.37 (1), Stats., or by application to the Attorney General or a district attorney."

### **DEMAND THAT A REQUEST BE REASONABLY SPECIFIC**

A request must be honored if it "reasonably describes the requested record or the information requested." However, requests to go through an office's files (a "fishing expedition") do not have to be honored.

For example, requests such as the following must be given a response: "All constituent mail on Assembly Bill 000"; "the mailing list for your newsletter distribution"; "all correspondence on the Highway XO project in your district."

Also, there is no blanket exemption for constituent mail--in most cases, it is a "record."

### **SEEKING IDENTITY OF REQUESTER; PURPOSE OF REQUEST**

A record request may not be denied because the requester refuses to provide identification or to state the purpose of the request. However, if the record is at a private residence, or valid security reasons exist, a requester may be required to show acceptable identification. Also, if it is known that a person making a record request is an incarcerated person or a person committed to an inpatient treatment facility, a legislator is under no obligation to respond to the request, unless:

- The record contains specific references to the person or to his or her minor children to whom he or she has not been denied physical placement; and
- The record is otherwise accessible to the person by law.

### **DECIDE IF THE REQUESTED MATERIAL IS A "RECORD"**

A record is any material which bears information, regardless of form ("written, drawn, printed, spoken, visual or electromagnetic information") and which was created or is being kept by a custodian, except:

- Personal property of the legislator which has no relation to his or her office of legislator;
- Drafts, notes, preliminary computations and similar material prepared for the personal use of the legislator or prepared in the name of a legislator by a member of his or her staff;
- Material to which access is limited by copyright, patent or bequest; and
- Published materials which are available for sale or are available at a public library.

If the requested material falls into one of the above exceptions, it is not a "record" and the request may be denied for that reason.

### **MAKE A DECISION ON THE REQUEST**

It is the public policy of the state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. The law is to be construed with a presumption of complete public access, consistent with the conduct of governmental business. The denial of public access generally is contrary to the

public interest. Access may be denied only in exceptional cases--that is, under specific statutory or common law exemptions and in cases where it can be demonstrated that the harm done to the public interest by disclosure outweighs the right of access to public records.

If a record requester appears in person, a legislator may permit the person to photocopy the record or provide the person with a copy substantially as readable as the original. Similar provisions apply to records in an audio, video, photographic or computer format. The legislator must provide a record requester with facilities comparable to those used by employees to inspect, copy and abstract the record during established office hours. However, the legislator is not required to purchase new equipment or provide separate room for a record requester.

### **DENIAL OF A REQUEST**

In some instances, access to records may be denied. However, any written denial must specifically cite a statutory or common law exemption or demonstrate that there is a need to restrict public access at the time that the request is made.

The exemptions to the Open Meetings Law are used as a guide for denial. The applicable exemptions in that law are:

- "Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body."
- "Considering dismissal, demotion, licensing or discipline of any public employe or person licensed by a public body or the investigation of charges against such person . . . and the taking of formal action on any such matter . . ."
- "Considering employment, promotion, compensation or performance evaluation

data of any public employe over which the governmental body has jurisdiction or exercises responsibility.”

- “Deliberating or negotiating the purchasing of public properties, the investing of public funds or conducting other specific public business, whenever competitive or bargaining reasons require a closed session.”
- “Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons . . . which, if discussed in public, would be likely to have a substantial adverse effect on the reputation of any person referred to in such histories or data, or involved in such problems or investigations.”
- “Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.”
- “Consideration of requests for confidential written advice from the ethics board under s. 19.46 (2), or from any county or municipal ethics board.”
- “Considering any and all matters related to acts by businesses under s. 560.15 (economic adjustment program where a business is shutting down or laying off employes) which, if discussed in public, could adversely affect the business, its employes or former employes.”

(In addition to the above, meetings can also be closed to discuss probation or parole applications, crime fighting strategy, burial sites, ice rink operation and certain Unemployment Insurance Advisory Council and Worker's Compensation Advisory Council

matters. In specific situations, these less-common grounds may be applicable to a record request made to a legislator.)

The Wisconsin Supreme Court has stated that access to information collected under a pledge of confidentiality, where the pledge was necessary to obtain the information, may be denied. The Open Records Law also exempts records from access if: (1) federal or state law requires nondisclosure; (2) the record is a computer program; or (3) the record is a trade secret. Other statutory and common law exemptions exist--a legislator can be advised of the exemptions to the Open Records Law by Legislative Council Staff.

### **PARTIAL DENIAL**

If part of a record qualifies for confidential treatment, the remainder must be released. In those instances, a legislator should either separate the confidential information, or delete it, and release the remainder.

### **PROVIDE COPIES ON REQUEST**

Persons having a right to inspect a record are entitled to a copy, if they ask for it. The custodian should copy the record in order to retain control over the original record. A fee for copying, which does not exceed the actual copying cost, may be charged based on per copy charges established by the Chief Clerk in each house.

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This memorandum was prepared on December 28, 2000, by *Ronald Sklansky, Senior Staff Attorney.*

Memoranda in the "Functions of the Legislature" series: **Legislative Staff Services, IM-00-17; Review of State Agency Administrative Rules, IM-00-18; Responding to Public Records Requests, IM-00-19; Lobbying Law Requirements, IM-00-20; Ethics Code Requirements, IM-00-21; Interstate Legislative Organizations, IM-00-22; Legislative Documents, IM-00-23.**

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**WISCONSIN LEGISLATIVE COUNCIL**

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