

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

1995-96

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on
Veterans and
Military Affairs
(AC-VMA)**

Sample:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

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➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

➤ **95hr_AC-VMA_Misc_pt02b**

➤ Record of Comm. Proceedings ... RCP

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*Laotian American Recognition Day
Brooks Field - Colorado School of Mines
Saturday, July 22, 1995*

General Vang Pao, Lao-Hmong Leaders, Lao-Hmong People, Representatives from Air America, Air Commandos, Ravens FACS, Special Forces, United States Army, Navy and Air Forces, United States Department of State, CIA, Ladies and Gentlemen:

More than 34 years ago, in the fall of 1960, I first met General Vang Pao, then Lt. Col. Vang Pao, and some of his Lao-Hmong leaders at Padong, Laos. We drank that powerful rice whiskey, and with Mr. Bill Lair, talked about the forthcoming air resupply of weapons and ammo for the Lao-Hmong guerrillas, to assist them in the fight against the communist forces in Laos.

In those early days, the United States government was looking for allies to support its policies in Southeast Asia. The Lao-Hmong were seeking to gain equal rights as free citizens of Laos. Not only were they seeking freedom and equal rights, but they were willing to fight and die for it. Agreement was reached, and Vang Pao organized and led his people in a war against the communists. They believed they had a trustworthy ally, the United States of America, who would stand by them to the end, and never go back on its solemn promises that had been agreed to. So, for the next 13 years, these valiant people supported the United States every request. They sacrificed thousands of their young, brave warriors in the belief that the United States of America would stay the course until final victory.

Today, we are gathered here to pay tribute to the most brave and loyal group of combat soldiers I have ever known. To those who made the supreme sacrifice, and to their families, I want you to know, that what my government did to your people, the Lao tribes, is inexcusable. We sacrificed the lives of your young men, your homeland and your freedom, and withdrew without regard to your well being and survival.

I can remember in the 1960's, the Lao-Hmong had succeeded in tying down thousands of North Vietnam's best soldiers in Military Region 2, of Laos. This resulted in the United States taking far fewer casualties in Vietnam. Your constant attacks on the Ho Chi Minh Trail, and your protection of our forward staging rescue bases, Site 36, and the radar bombing facility at Site 85, were invaluable to the United States bombing offensive against North Vietnam.

Through all these years, the CIA and State Department pressured you to increase your activities in Northern Laos. Your response was always positive, regardless of the terrible suffering you endured. Your villages came under fire and many of your family members were killed or wounded. More than 10%, some 40,000 people, were casualties. Many of these were your finest young men, but you still remained a staunch and loyal ally.

Those of us who are here today, are veterans of the United States "Secret War" in Laos. We are very familiar with what your nation did for those many years of conflict in that secret war.

What did we do for you, our staunch and loyal ally? We provided you the wherewithal to pursue the war, as long as it served our purpose. Then, when our policymakers, in the United States, decided to withdraw from Laos, in 1975, we withdrew without looking back. Without looking back to ensure that our Lao-Hmong allies and their families were provided the wherewithal to relocate outside of Laos.

Without looking back to see that those in Laos, who could not escape, were properly represented in the United Nations

Without looking back to ensure that they did not spend the remainder of their lives in squalid refugee camps.

What really happened was that the thousands of Lao-Hmong, who remained in Laos, were brutally punished for their support of the United States. They were doused with deadly chemicals from the air, forced from their homes and villages, and incarcerated. Many died, being tortured or starved to death.

For those who fled to Thailand, what they thought was safety and refuge, became 20 years of incarceration in squalid camps administered by the Thai police. After 20 years, the U.S. State Department has not been able to relocate these brave allies. Some 30,000 remain in the camps today. They are now faced with forced repatriation to Laos--and for many, to the same communist government they fled from 20 years ago--a government that is partially controlled by the Lao-Hmong's dreaded enemy, the North Vietnamese.

During the height of the Lao-Hmong involvement, the CIA budget for Laos was three quarters of a billion dollars annually. While the United States has ignored its obligations to the Lao-Hmong, troops have been deployed to Desert Storm to prevent Iraq from over-running and annexing Kuwait. Combat forces have been deployed to Bosnia, Panama, and Somalia. America has given humanitarian assistance around the world -- BUT NOTHING TO THE LAO-HMONG.

We Americans, here today, and throughout the United States, should hang our heads in shame -- first, for abandoning these loyal allies, in 1975, without a real effort to evacuate them; and secondly, for walking off and never looking back.

"How many of you out there, who fought and drank with the Lao-Hmong, pledged your support to them, tied the strings on your wrists, making you eternal brothers? How many of you ever looked back to see what was happening, or what has happened, to your loyal allies? How many of you have written or visited your former allies with offers of support?"

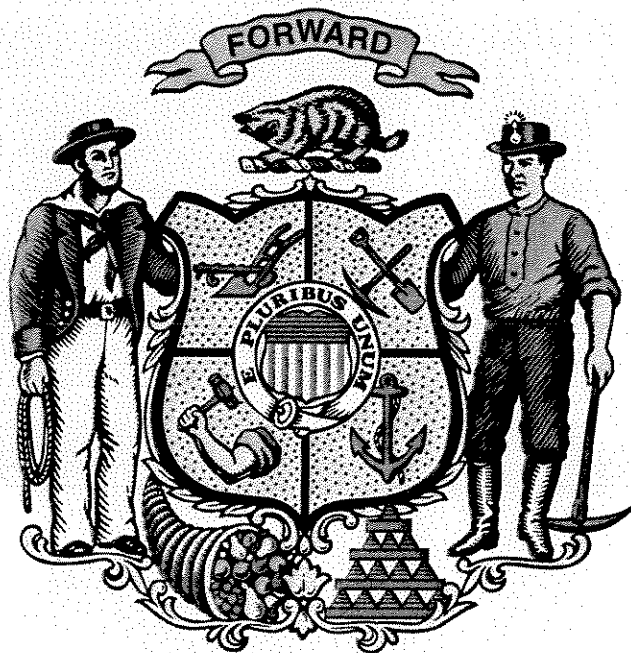
Very few, if any of the thousands of CIA, State Department, Air America, Continental Air, Bird Air, Air Commandos, Special Forces, and all represented here today, have concerned themselves with the brave, Lao-Hmong people. But, it is not too late. We need to band together and raise hell with our government in Washington. We need to bash the State Department for its sorry records. To be successful, we need to flood Washington with hundreds of thousands of letters to our Congress, making it known that we consider our State Department the center of the problems.

If we can provide 4,000 Iraqi enemy POW's with refuge in the United States of America, we can surely handle the relocation of the most loyal American Allies in the history of the United States.

I humbly seek your support, and that of your organizations, in settling this long overdue obligation.

Thank you.

*Brig.General Harry C. (Heinie) Aderholt
United States Air Force, Ret.*



AUGUST 3, 1995

NEWS RELEASE

FOR IMMEDIATE RELEASE

MOVING VIETNAM WALL VISITS WISCONSIN

Madison.....The Moving Wall, a replica of the Vietnam Veterans Memorial Wall in Washington D.C., will be making two stops in Wisconsin according to State Representative Terry Musser, Chairman of the Wisconsin Assembly Veterans and Military Affairs Committee.

Representative Musser, a Vietnam Veteran, said the Moving Wall honoring those who sacrificed their lives, and those who remain missing, is very impressive. For Wisconsin citizens who are unable to visit the memorial in Washington, this is a great opportunity to pay tribute to the service men and women the Wall commemorates.

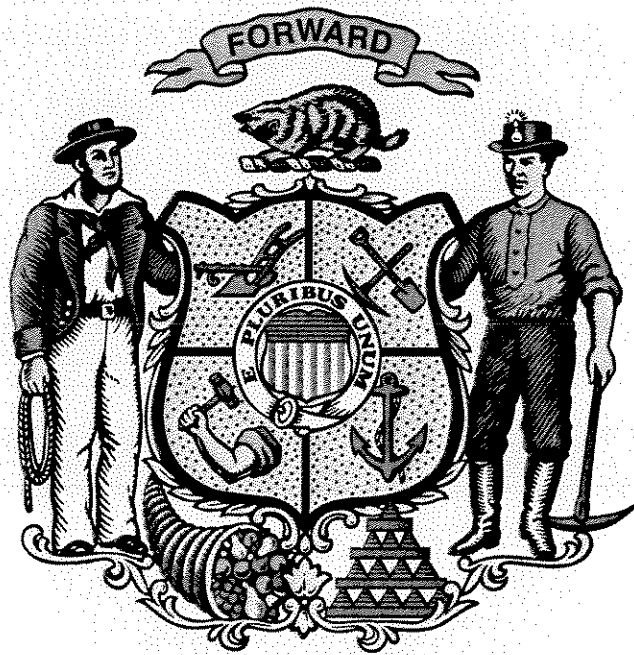
The Moving Wall will be at the following locations with the ceremonies including a reading aloud of the names of those from each county, Brown and Milwaukee.

August 19-23 Green Bay, Fort Howard Cemetery.
Ceremony: Saturday, August 19th at 7:30pm
August 26-31 Milwaukee, Pinelawn Memorial Park.
Ceremony: August 30th at 7:00pm

The Vietnam Veterans Memorial in Washington, D.C., Musser explained, was completed in 1982 and is commonly called the Wall. It quickly became the most popular memorial in our country and was visited by more than 25 million people during the first ten years. The memorial was constructed completely with private donations from American citizens.

The Moving Wall is inscribed with the identical 58,183 names of courageous men and women who gave their lives during the Vietnam War.

END





Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

August 10, 1995

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Recent Court of Appeals Ruling on the Wisconsin Retirement System Special Investment Performance Dividend Lawsuit

On July 20, 1995, the Court of Appeals (District IV) affirmed that portion of a Dane County Circuit Court opinion which held that the use of a portion of Wisconsin Retirement System (WRS) trust fund earnings as a special investment performance dividend in order to pay benefits previously funded from a GPR supplemental benefit appropriation was an unconstitutional taking of property from certain WRS annuitants without just compensation. The Court of Appeals directed that the WRS trust fund be reimbursed by the amounts distributed to replace the GPR supplemental benefits, plus interest computed from the date of the first unconstitutional distribution of trust fund amounts.

In response to several inquiries about the potential fiscal implications of this decision, this memorandum has been prepared to provide information on: (1) the background of the current court case; (2) the principal findings of the Court of Appeals; (3) the potential implications of the Court's findings for the state's general fund; and (4) the potential implications of the Court's findings for certain WRS annuitants.

BACKGROUND RELATING TO THE SPECIAL INVESTMENT PERFORMANCE DIVIDEND LITIGATION

Provisions contained in 1987 Wisconsin Act 27 (the 1987-89 biennial budget act) required a one-time transfer of a total of \$230 million from the Transaction Amortization Account (an account containing the cumulative gains and losses on WRS fixed trust fund investments) to employe, employer and annuitant reserves, effective September 30, 1987. Further, 1987 Wisconsin Act 27 required that the portion of the transfer accruing to the annuitant reserve

account (approximately \$78.5 million to which was added an existing surplus balance of \$6.1 million for a total of about \$84.7 million) be distributed as a special investment performance dividend by the Employee Trust Funds (ETF) Board to those annuitants receiving a GPR supplemental benefit as a result of both Chapter 337, Laws of 1973 and 1983 Wisconsin Act 394. In addition, 1987 Wisconsin Act 27 also required that the GPR supplemental benefits already being paid to these annuitants be reduced by the amount of the annuity increases provided by the special investment performance dividend.

Subsequently, the ETF Board and other state officials were sued in the Dane County Circuit Court regarding this transfer and distribution. The plaintiffs sought a judgment that the Court: (1) find unconstitutional the provisions of 1987 Wisconsin Act 27 directing the transfer of the \$230 million, providing payment of the special investment performance dividend and requiring the cessation of the GPR supplemental benefit payments for pre-1974 retirees; (2) enjoin the defendants from the legislatively mandated actions requiring the transfer and the payment of the special investment performance dividend; and (3) direct the defendants to recover and restore the \$230 million, plus interest.

In decisions dated July 29, 1991, and October 23, 1991, Dane County Circuit Judge Angela Bartell held that the special investment performance dividend created by 1987 Wisconsin Act 27 violated Section 26 of Article IV of the state Constitution because it granted increased benefits to retired public employees without using state funds, as required by that provision. The Court also declared that the implementation of the special investment performance dividend violated statutory and federal and state constitutional provisions prohibiting the impairment of contracts and that the ETF Board and Secretary of ETF had violated their fiduciary duties to the trust fund.

On November 19, 1993, Judge Bartell issued her ruling on the remedies which must be undertaken to implement her earlier decisions. Judge Bartell ordered that a special remedial special investment performance dividend bookkeeping account within the WRS fixed annuity reserve be established and funded in an amount sufficient to fund a post-retirement annuity increase of 2%, effective as of July 1, 1987, to all those annuitants held to be "affected annuitants" (generally annuitants who retired after September 30, 1974, and before July 2, 1987, and who did not receive an additional dividend increase as a result of the special investment performance dividend). The Judge's order provided that each affected annuitant (or annuitant's beneficiary) receive a lump sum payment for the amount of increase due for the period prior to August, 1994, at the same time as the regular August, 1994, annuity payment. Further, the order provided that effective with the August, 1994, regular annuity payment, all affected annuitants then currently receiving an annuity receive a permanent 2% increase in the amount of the annuity they were receiving on July 1, 1987.

The Judge's decision provided that "the entire sum necessary to amortize a 2% increase in annuities of affected annuitants as of July 1, 1987," was to be determined by ETF with the assistance of its consulting actuary and paid to the special remedial special investment performance dividend account. The Judge's decision also provided that the plaintiffs' reasonable and necessary attorneys fees be paid by the fiduciary defendants.

The Court's order was formally entered into judgment on February 5, 1994. The defendants appealed the Circuit Court decision to the Court of Appeals, and the trial court stayed those portions of its order relating to monetary relief pending the hearing of that appeal. Subsequent to the filing of this appeal, the Wisconsin Supreme Court was petitioned to take the case directly, thereby sidestepping the Court of Appeals stage. However, on November 21, 1994, the Supreme Court denied this petition to expedite consideration of the case.

The Court of Appeals met on March 16, 1995, to hear oral arguments on the appeal. On July 20, 1995, the Court of Appeals issued its opinion. The parties have until August 21, 1995, to appeal the Court's ruling to the State Supreme Court.

PRINCIPAL FINDINGS AND RULINGS OF THE COURT OF APPEALS

The Court of Appeals made the following principal findings and rulings with respect to the special investment performance dividend case:

- The Court affirmed that the special investment performance dividend and its implementation was an unconstitutional taking of trust fund earnings in the WRS annuity reserve for the purpose of reducing GPR-funded supplemental benefits and the trial court is directed to enter an order to this effect. The effects of this order will be to cease all future special investment performance dividend payments to affected annuitants and to restore the payment of GPR-funded supplemental benefits, as originally provided under Chapter 337, Laws of 1973 and 1983 Wisconsin Act 394. The Court noted that "[e]njoining the repeal [of these two laws directing supplemental benefits] is part of the necessary equitable relief aimed at halting the use of trust fund earnings to pay for supplemental benefits. However, the injunction will not prevent the Legislature from deciding whether to provide supplemental benefits from GPR in the future, and, if it does, in what amounts."

- The Court modified the trial court's repayment procedures. The defendants are ordered to pay from the state treasury to the WRS annuity reserve account the following amounts: (1) that portion of special investment performance dividends distributed, beginning in 1987, that reduced GPR expenditures for supplemental benefits; and (2) interest on that amount equal to the average rate of earnings of WRS fixed trust fund assets from the date of the first distribution to the date of repayment to the WRS annuity reserve account.

- The ETF Board is directed to distribute these repaid funds consistent with current statutory distribution requirements as a dividend to affected WRS annuitants and beneficiaries (annuitants who retired after September 30, 1973, and before July 2, 1987).

- An annuitant receiving a higher distribution as a result of the payment of the special investment performance dividend does not have a contractual right to that increased benefit once the Court bars continuation of the special investment performance dividend. The Court noted that it is the prerogative of the Legislature to determine if it wishes to provide prospective funding

to any annuitant who experiences a benefit decrease as a result of ending the special investment performance dividend.

- The Court reversed the trial court and found that the ETF Board and other administrative trustees of the WRS annuity reserve account had not breached their fiduciary duties by failing to seek a court ruling prior to implementing the special investment performance dividend.

- The Court reversed the trial court and barred making the defendants liable to pay plaintiffs' attorney fees and directed instead that the trial court determine those fees and order their payment from the amounts to be repaid to the WRS annuity reserve account.

POTENTIAL IMPLICATIONS FOR THE STATE'S GENERAL FUND

The state's general fund stands to be impacted as a result of the Court of Appeals decision as follows: (1) amounts which have been paid from the special investment performance dividend to reduce GPR expenditures for supplemental benefits for pre-October 1, 1973, annuitants must be repaid to the WRS annuity reserve; (2) interest earnings on those amounts equal to the average rate of earnings of the WRS fixed trust assets from the date of the initial special investment performance dividend distribution must be repaid; and (3) the statutes directing the payment of GPR-funded supplemental benefits to the pre-October 1, 1973, annuitants are restored.

ETF has begun to develop cost figures for these different components of the Court's orders. It should be noted that these estimates are preliminary at this time and may change as a result of further detailed analysis by the WRS consulting actuary and by such other adjustments as the apportionment of costs for approximately 350 beneficiary annuitants.

Payments to Reduce GPR-Funded Supplemental Benefits. ETF estimates that through July 1995, a total of approximately \$51,965,000 GPR would have been paid in supplemental benefits from the Department's s. 20.515(1)(a) appropriation if 1987 Wisconsin Act 27 had not been enacted providing for the payment of the special investment performance dividend. It may be noted that as a result of the manner by which the special investment performance dividends were distributed, the great majority of eligible annuitants actually received higher benefit payments than they had under the GPR-funded supplemental benefit. However, the Court's decision appears to require the restoration only of those amounts which actually reduced the GPR supplemental payments. It is unclear under the language of the Court's order whether or not the state must also repay to the WRS annuity reserve those amounts which were paid from the special investment performance dividend in excess of the total amount of the reduced GPR supplemental payments.

Interest Payments. The state must also restore interest earnings on the above amounts equal to the average rate of earnings of the WRS fixed trust assets from the date of the initial special investment performance dividend distribution. The Court's opinion does not provide clear guidance as to whether the interest rate is the rate of return on WRS fixed fund investments

managed by the State Investment Board, or whether it is fixed fund effective rate which includes the impact of distributions from the Transaction Amortization Account and also reflects the realizing of one-time investment gains as a result of specific legislation (for example, 1989 Wisconsin Act 13 directed a one-time \$500 million transfer of previously unrealized investment earnings to the Transaction Amortization Account for distribution to the employee, employer and annuity reserves).

If the average rate of earnings is deemed to be the State Investment Board investment rate, the additional amounts which would have to be restored would amount to at least \$48,535,000 GPR (through December 31, 1994) for a total, including the restoration of the above supplemental benefit amounts, of at least \$100,500,000 GPR.

However, if the average rate of earnings is deemed to be the effective rate for the WRS fixed trust fund, the additional amounts which would have to be restored would amount to at least \$64,035,000 GPR (through December 31, 1994) for a total, including the restoration of the above supplemental benefit amounts, of at least \$116,000,000 GPR.

As noted in the preceding section, the Court required that the plaintiffs' attorney fees also be paid from these repayment amounts.

Restoration of GPR-Funded Supplemental Benefit Payments. The Court's order also has the effect of restoring the payment of GPR-funded supplemental benefit payments to pre-October 1, 1973, annuitants. Based on the current number of such qualifying annuitants, net additional costs of \$338,000 GPR per month (\$4,056,000 GPR annually) are estimated.

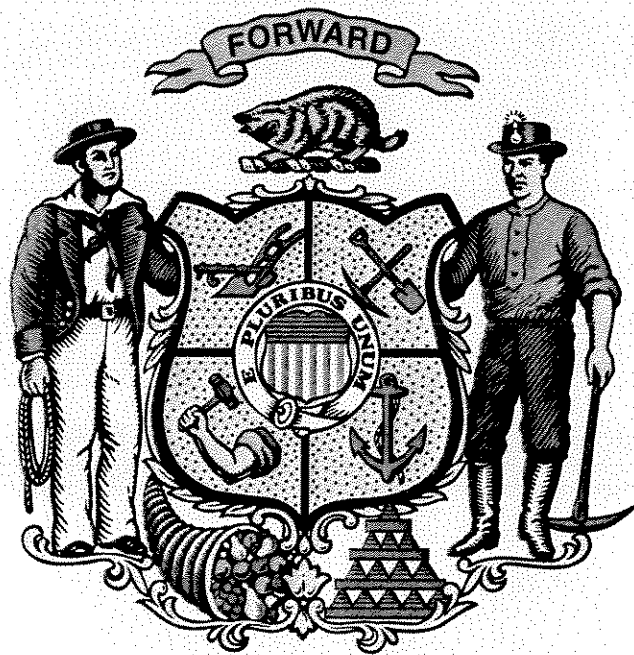
POTENTIAL IMPLICATIONS FOR AFFECTED WRS ANNUITANTS

When the ETF Board implemented the payment of the special investment performance dividend, it did so under a formula which had the effect of displacing the maximum amount of supplemental benefits in order to most effectively blunt the impact of inflation on the WRS benefits of the oldest annuitants. As a result of this formula, 17,430 of the 20,394 WRS annuitants receiving supplemental benefits began to receive distributions which were actually larger than the GPR-funded supplemental benefits they had been receiving. The remaining 2,964 annuitant eligible for the supplemental benefits began to receive distributions that were less than the GPR-funded supplemental benefits they had been receiving. However, for this latter group of annuitants, they continued to receive GPR-funded supplemental payments [under s. 20.515(1)(a) of the statutes] in amounts equal to the difference between the benefit amount under the distribution formula and the supplemental benefits they had been receiving prior to the payment of the special investment performance dividend. (Currently, the total amount of such GPR-funded supplemental benefits are estimated at \$373,000 GPR in 1995-96 and \$330,800 GPR in 1996-97.)

As of July 1995, there were 10,011 annuitants still receiving distributions from the special investment performance dividend. Because the Court's order would end the special investment performance dividend and restore the GPR supplemental benefit, it is estimated that approximately 80% to 85% of this group would actually experience some reduction in their monthly annuity benefit. This is because the Court determined that the affected annuitants did not have a contractual right to the higher payment levels they have been receiving under the special investment performance dividend but are due only the benefit levels provided by the operation of the supplemental benefit alone. The Court also recognized that it was clearly the prerogative of the Legislature to determine whether or not it wished to continue these supplemental benefits or to provide other supplemental benefits in the future.

Upon repayment of the amount of the GPR supplemental benefit reduction and accrued interest, the ETF Board is directed to distribute the repayment to the class of affected annuitants (primarily annuitants who retired after September 30, 1974, and before July 2, 1987) in the form of a dividend. This mechanism is apparently intended to make whole those annuitants who did not originally receive an increase as a result of the distribution of the special investment performance dividend.

This office will continue to monitor development in this case and will periodically advise the Legislature on the potential fiscal implications, as the need arises.

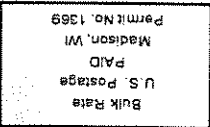


WHAT MUST I DO TO APPLY?

1. Contact the Wisconsin Troops to Teachers Placement Office which will:
 - provide an application
 - oversee applicant's status
 - furnish a list of eligible school districts
 - provide guidance and interaction with Department of Public Instruction to gain a regular teacher's license
 - furnish an inventory of alternate certification programs offered in Wisconsin
2. Apply to DANTES. Send the following with your completed application:
 - a final transcript showing highest earned degree and date awarded
 - your DD214, member copy 4 (submit your application even if your DD214 has not yet been issued)

DANTES will contact the applicant within 30 days. If selected, the applicant will receive a *Letter of Introduction* to use when contacting school districts.

3. Contact potential employers (school districts):
 - decide where in Wisconsin you would like to live and work
 - research desired communities (contact chambers of commerce, etc.)
 - in conjunction with the placement office, contact those districts that are eligible for **Troops to Teachers** participation — furnish a resume and your *Letter of Introduction*

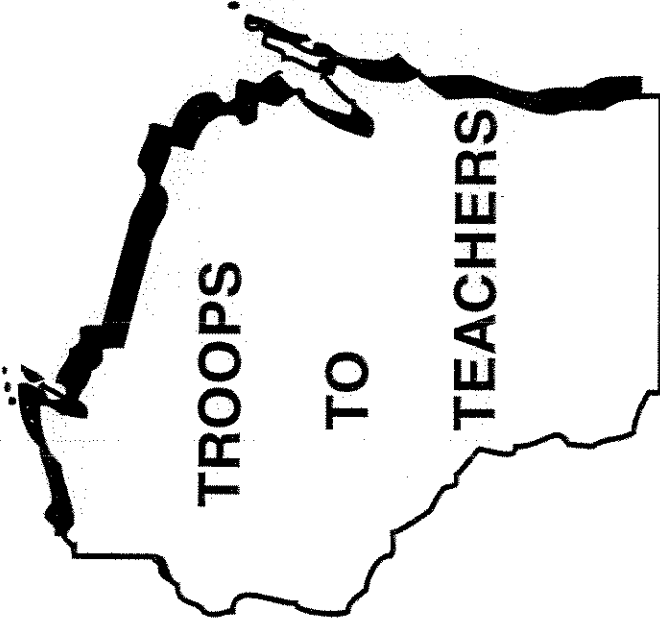


Aug 1995

Troops to Teachers Placement Office
P.O. Box 7843
Madison, WI 53707-7843

When administering or determining eligibility for benefits offered to veterans by the state of Wisconsin, WDVA does not discriminate against persons, or harass them, because of their race, creed, color, national origin or ancestry, age, disability, gender, sexual orientation, political affiliation or beliefs, or arrest or conviction record. The Wisconsin Department of Veterans Affairs is an Equal Opportunity Lender. The Department is also a Fair Housing Lender.

WDVA B203 (08/95)
BROCHURE/DTP-B203 P/M5



TO PLACE VETERANS
AS TEACHERS & TEACHERS' AIDES
WITHIN THE
WISCONSIN SCHOOL SYSTEM

WHAT IS TROOPS TO TEACHERS?

The Defense Activity for Non-Traditional Education Support (DANTES) manages the Troops to Teachers Program. It is designed to help separated members of the Armed Forces obtain alternative certification and employment as teachers or teachers' aides.

These men and women will transfer their knowledge, instructional and organizational skills to the classroom as well as provide positive role models for students.

For a school district to be eligible, it must be:

- receiving Federal grant funding due to concentrations of children from low-income families (Chapter 1, Title 1, Elementary and Secondary Education Act of 1965)
- experiencing problems filling positions with qualified people

DANTES will approve a candidate and provide his or her name to the Wisconsin Troops to Teachers Placement Office who will help to match the applicants' qualifications with the needs of local schools in eligible districts.

While the primary focus of Troops to Teachers is on math and science, numerous other teaching certification areas are available.

Note: Selection by Troops to Teachers (and the receipt of a letter of eligibility) does not entitle the selectee to teach in Wisconsin. Standard Wisconsin certification must also be obtained.

WHO IS ELIGIBLE TO PARTICIPATE?

Military applicants must have served on active duty for at least six years and received an honorable discharge. Service members with a bachelor's degree who were separated:

- between October 1, 1990 and January 18, 1994 — have until October 5, 1995 to apply
- after January 19, 1994 — have one year from the date of discharge to apply

Service members without a bachelor's degree have *five years* to obtain the degree and then *one year* to apply.

Applications cannot be accepted beyond the program end date of September 30, 1999.

Note: Certain civilian DoD/DoE employees are eligible for participation. Please contact DANTES or your placement office for more information.

HOW DO I QUALIFY?

Applicants for employment as teachers must have at least a bachelor's degree. Teachers' aides applicants must have at least an associate's degree. All applicants must agree to full-time employment for five school years in a school that serves a high concentration of students from low-income families.

WHAT FINANCIAL ASSISTANCE IS AVAILABLE?

Troops to Teachers will pay:

- to the individual—up to \$5,000 to offset expenses incurred while obtaining certification
- to the local school district—a percentage of a teacher's or aide's basic salary for the first five years of employment, as follows:

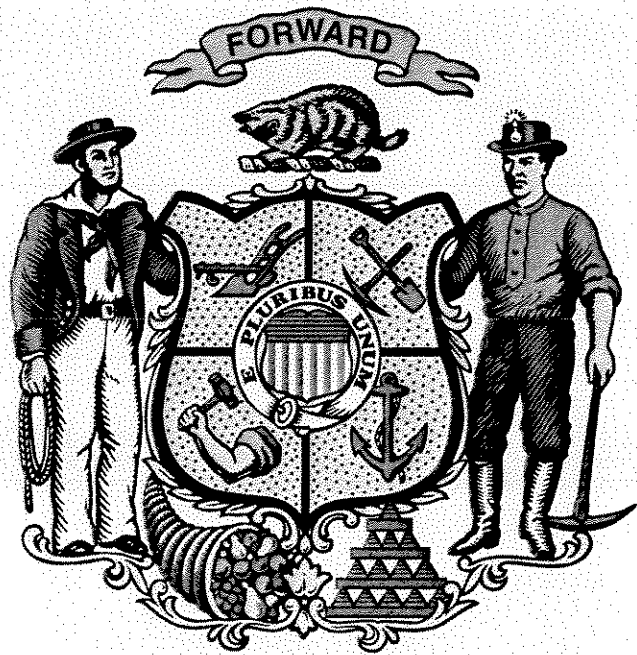
1st year	- 50%	(not to exceed \$25,000)
2nd year	- 40%	(not to exceed \$10,000)
3rd year	- 30%	(not to exceed \$7,500)
4th year	- 20%	(not to exceed \$5,000)
5th year	- 10%	(not to exceed \$2,500)

WHO SHOULD I CONTACT?

Interested veterans and/or school administrators may contact:

Wisconsin Troops to Teachers Placement Office
30 West Mifflin Street, P.O. Box 7843
Madison, WI 53707-7843
800-947-8387, 608-267-7329, FAX 608-267-0403

DANTES/Troops To Teachers Program
6490 Sautfley Field Road
Pensacola, FL 32509-5243
800-452-6616, 904-452-1151, DSN-922-1234
FAX 904-452-1096



WYVFN E JOURNAL SENTINEL

TUESDAY, OCTOBER 24, 1995 — STATE EDITION

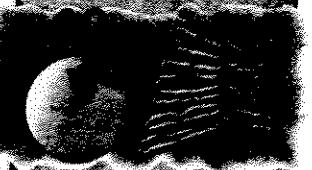
CONJURING UP
MAGIC WITH
DAVID SEEBACH

CHEESEHEAD
MUSICAL
INVADES
NEW YORK

ENCORE
ZOMBIES

UW STAR BALANCES
SPORTS, SCHOOL,
MOTHERHOOD

SPORTS



NEWS

ION

— **SENATORS** force the Clinton to the U.S. Embassy to the ancient city

Story on 4A

BELOVED STAR — Yolanda Saldívar was convicted Monday in the murder of Tejano singer Selena Quintanilla Perez, shown performing at a concert in Corpus Christi, Texas, last year. The jury will return Tuesday to decide on punishment. Saldívar could get up to 10 years in prison.

Identified MIA remains include Marshfield man

By **JOE WILLIAMS** of the Journal Sentinel staff

Every morning for more than two decades, Herbert Fellenz raised the American flag from the porch of his Marshfield home with the hope it would someday greet

his son. That day never came. The remains of Chief Master Sgt. Charles R. Fellenz, who left home for the Vietnam War in 1968 saying, "I'll be back, Dad," were identified by the Pentagon Monday along with those of 13 other servicemen listed as missing

in action.

While family members Monday said the news provided a sense of closure, they said it came too late to have any real impact for his parents.

"It's an awful long time to wait for the news," said Rich-

ard Fellenz, of Marshfield, a cousin.

Charles Fellenz's mother, Ann, died in 1977. Until she was notified that his plane was shot down in 1969, she wrote to him every day.

Please see **FELLENZ** page 7

A view from the summit



Sheriff Richard Artico would announce Nov. he will run for m

Artico
picks i
cand:

Fellenz/Pentagon confirms soldier is dead

From page 1

Herbert Fellenz, who had vowed to keep the Stars and Stripes flying each day until his curly redhead-

ed son returned, now lives in a Marshfield nursing home, suffering from Alzheimer's disease, family members said. "We had heard a rumor that this might be true, but haven't been able to find out because my uncle (Herbert) is sick with Alzheimer's," Don Fellenz, another cousin, said of the Pentagon finding. Family members said The



Fellenz

High Ground, the Wisconsin Vietnam Veterans Memorial in Neillsville, has honored Charles Fellenz in a memorial for soldiers missing in action.

A 1987 WISCONSIN magazine story in The Milwaukee Journal said the C-130 cargo plane in which the 30-year-old Air Force supply sergeant rode as a flare man was shot down over Laos, apparently by ground fire, on Nov. 24, 1969.

The plane was taking supplies to a site in North Vietnam when reports of a storm brewing ahead brought orders to turn around and return to home base. Instead of taking the longer route over Vietnam, the pilot chose a shortcut over Laos. It proved to be a bad decision, his father said in a 1987 interview.

The parents continued to re-

ceive mail from their son even after they were notified by telegraph that the plane had been shot down. Their 6-foot, 185-pound son had written the letters before the ill-fated mission.

The remains of Fellenz and seven other men from the plane were recovered in November 1993.

Employee electrocuted

Associated Press

Glen Burnie, Md. — James Hill, 17, was electrocuted while vacuuming at a Circuit City electronics store, where two co-workers heard him yell while he was cleaning in a storage area Sunday, police said.

PRESSLINE STOCK HOTLINE

• EASY ACCESS •

Now reaching the Milwaukee Stock Quote Hotline is easier our PressLine service, offering signals. Call anytime for current prices and information

HOW TO CALL STOCK

1. Dial 200 on your touchtone phone then (You no longer need to remember a 7-digit voice number.)
2. A voice will welcome you to PressLine and information on using PressLine, including costs.
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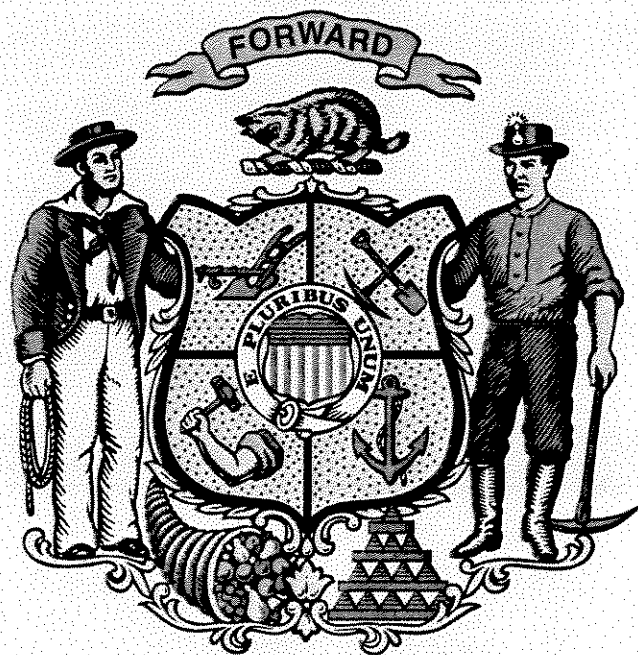
Homicides down, suicides up, federal figures show

Washington — Homicides declined last year while suicides

rose 24 percent, the suicide rate was 26 percent higher than 100,000 people, more than double the overall rate and triple the rate for young males in the

Associated Press

These Shoes



1995

As I See It

THE FABRIC OF AMERICA CANNOT BE BURNED

Marvin J. Freedman

If the proposed constitutional amendment to prohibit the physical desecration of the United States flag makes its way through Congress and is ratified by the States, we can count on a bona fide constitutional crisis. The new amendment would instantly be in conflict with the First Amendment of the Bill of Rights which guarantees, among other things, the right to free speech. Proponents of the flag amendment say it has nothing to do with the First Amendment. Despite that contention, their proposal has everything to do with the First Amendment, pure and simple.

When was the last time you heard about a flag-burning? In recent years, their occurrence has become extremely isolated. The media went on to sensationalize other issues and blow them out of all proportion.

"...[T]he whole issue of flag desecration was never anything more than a figment of the fourth estate's misplaced editorial priorities."

The flag-burners lost their spotlight and then their motivation to burn. That is not surprising because the whole issue of flag desecration was never anything more than a figment of the fourth estate's misplaced editorial priorities.

When you get right down to it, what did the flag-burners, even in their prime-time glory, really threaten? Not the security of our country. Nor the integrity of our flag which is a symbol of our nation. The burners only threatened and shocked our sensibilities, our sense of good manners and decency. Their actions can be best equated with infantile temper tantrums.

The constitutional crisis-in-making results from the ambiguities of the language of the proposed

flag amendment itself. Its supporters take great pride in its simplicity and clarity. It is anything but-- regardless of the amendment's appearance initially. "The Congress and the States shall have power to prohibit the act of physical desecration of the flag of the United States," is what it

"The [flag-]burners only threatened and shocked our sensibilities, our sense of good manners and decency. Their actions can be best equated with infantile temper tantrums."

says. What it does not say is anything about "intent" nor how the terms "flag" and "desecration" will be defined. That is where the First Amendment comes into play and the stage for a constitutional crisis is set.

Amendment proponents say the definitional ambiguities are non-issues. They point to previous congressional definitions. However, the amendment does not incorporate them. Nor are they binding on Congress either now or in the future-- let alone on the fifty states, each of which would be free to define "flag" and "desecration" as it sees fit. Further, the federal and state definitions would be subject to change with the shifting sands of time, the mood of the nation and the motions of America's political and social pendulums.

We all know about the flags on the flagpoles. But the Stars & Stripes have increasingly permeated various aspects of American life.

They have become an increasing part of our nation's fashion statement. We have dresses, ties, T-shirts, bathing suits, bandannas, beach towels and all other sorts of apparel and accessories utilizing flag-type formats. But are they "flags" as contemplated by the proposed amendment? More importantly, *could* they

"...[T]he federal and state definitions [of 'flag' and 'desecration'] would be subject to change with the shifting sands of time, the mood of the nation and the motions of America's political and social pendulums."

subsequently be defined to be covered by the amendment? If someone blows his nose in a Stars & Stripes bandanna or uses one to wipe the sweat from his face, is that "desecration"?

The real potential for crisis is one of context. Consider that star-spangled bandanna. Let's say a highly decorated combat veteran is placing little American flags on the graves at a veterans cemetery for Memorial Day, works up a sweat and wipes his brow with one of those red, white and blue bandannas. If the Flag Amendment were on the books, would the veteran's bandanna be deemed a "flag of the United States"? Probably not. But if it were, would his action be interpreted as "desecration"? I cannot imagine anyone thinking so.

"The real potential for crisis is one of context."

However, if a bedraggled looking anti-war protester wiped his brow with the same bandanna after working up a sweat denouncing a popular President and the United States government's military policy, a different outcome could be a distinct possibility. Whether the bandanna would be deemed a "flag" and the sweat-wiping considered "desecration" would very likely be directly related to the relative popularity of the President and the war being protested.

That is where the Flag Amendment and the First Amendment would bump into each other. The two amendments would become so intertwined that the courts would end up having to define "flag" and "desecration" narrowly. And what about the penalties for violations of laws enacted under the new amendment? Does anyone believe that the actual punishment ultimately meted out to violators would ever be significant enough to create a deterrent against future violations by others?

"The line between acceptable and repulsive forms of dissent is in the eyes of the beholders, whether that may be Congress, state legislatures or individuals. Once the first line is drawn, the next one and the one after that become all that much easier to put in place."

Dissent, regardless of how contemptible it may be, was clearly intended by the Founding Fathers to be as American as Mom and apple pie. The freedom of every person to speak his or her mind

is what makes our country a truly free one. There will always be people who will abuse the rights we enjoy. That is a fact of democratic life. There are times when the nature of the dissent may be obnoxious or even repugnant to virtually everyone, but the temptation to start establishing limits on the freedom of speech must be resisted at all costs. The line between acceptable and repulsive forms of dissent is in the eyes of the beholders, whether that may be Congress, state legislatures or individuals. Once the first line is drawn, the next one and the one after that become all that much easier to put in place.

"Just as we cannot dictate or legislate morality, we cannot do so with regard to respect....[F]lag-burners who have no respect for the American flag will undoubtedly have no respect for the laws that would prohibit their actions."

Besides, the amendment would not serve as a deterrent for those malcontents who would choose a match over words to criticize their government. Just as we cannot dictate or legislate morality, we cannot do so with regard to respect. After all, flag-burners who have no respect for the American flag will undoubtedly have no respect for the laws that would prohibit their actions.

The supporters and opponents of the flag amendment share many common traits. Both believe their position has the greatest merit. Both feel the other side is misguided. Both are basically made up of honorable people. What the two sides need to do now is respect the right of the opposition to hold and advocate its view. And they need to agree to disagree.

"It would be a tragedy if our flag, which symbolizes the unity of purpose of the American people, were to become a polarizing force. The last thing we need as a nation today is one more wedge to drive us apart."

The debate has become increasingly heated. The patriotism of amendment opponents is too often being improperly called into question. The issue has the potential to become as divisive as such

emotionally charged issues as the death penalty and abortion. It would be a tragedy if our flag, which symbolizes the unity of purpose of the American people, were to become a polarizing force. The last thing we need as a nation today is one more wedge to drive us apart.

When all is said and done, perhaps it all comes down to a basic question: does the American flag really need a constitutional amendment to protect it? Americans will continue, in their

"The flag doesn't need a constitutional amendment for its protection."

own ways, to deal with the flag-burners and defilers as we always have. Over a quarter of a billion of us will use contempt, derision, pity, anger, disdain, ridicule, scorn and ostracism in response to those despicable actions of a handful or two. The American people, almost without exception, view our flag with awe, pride and reverence. The flag doesn't need a constitutional amendment for its protection.

Our flag *represents* the fabric of America. But the actual fabric of America consists of the ideals on which our nation was founded. Hundreds of thousands of Americans have paid the ultimate price to preserve those ideals, not the flag itself. Malcontents can burn an American flag or two, but their acts cannot undermine the spirit of America nor its people's resolve to continue the bold experiment embarked on by our Founding Fathers.

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