

# The Legislative Process in Wisconsin



**State of Wisconsin**  
**Legislative Reference Bureau**  
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Cover photograph by Greg Anderson, Legislative Photographer

# THE LEGISLATIVE PROCESS IN WISCONSIN

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Legislative Reference Bureau

## I. INTRODUCTION

**“If you like laws and sausages, you should never watch either one being made.”  
Attributed to Otto von Bismarck.**

Bismarck’s dictum notwithstanding, this publication is designed to aid citizens in understanding the process by which ideas are introduced as bills in the legislature and subsequently become laws. The intent is not to make every citizen an expert parliamentarian or to teach readers how to run for the legislature or conduct the business of a legislative office. Its focus is the most important aspect of the legislature’s work: lawmaking.

The text is organized into two parts. The first part (Sections II through VII) gives a general overview of the legislative process and discusses the organization and structure of the legislature. It describes in detail the steps involved in the transformation of an idea into a bill draft and its subsequent journey from introduction to enactment. Attention is given to the work of legislative committees, action on the floor of each house, and the governor’s role in the legislative process. The part played by individuals, associations, and lobbyists is described in detail. Throughout the text are samples of actual legislative documents, including bill drafting requests, bill excerpts, committee hearing records, and legislative bulletins and journals.

The second part of the article (Section VIII) presents a case study of a specific bill, which was chosen to illustrate many of the points of legislative procedure outlined in part one.

The appendix includes a glossary, a list of sources of legislative information, and a selected bibliography.

## II. THE LEGISLATURE – ORGANIZATION, STRUCTURE, AND LEADERSHIP

The Wisconsin Legislature is a bicameral (2-house) body consisting of a 33-member senate and a 99-member assembly. Each senate district is made up of 3 assembly districts. Senators serve 4-year terms and representatives to the assembly serve 2-year terms. The 16 senators who represent even-numbered districts are elected in the fall of presidential election years; the 17 from odd-numbered districts are elected in gubernatorial election years.

A new legislature is sworn into office in January of each odd-numbered year to meet for a 2-year period called a “biennium.” For example, the legislature sworn in on January 7, 2013, will continue in existence until noon on January 5, 2015. It is referred to as the 2013 Legislature.

During the biennium, the legislature is in continuous session with a schedule of alternating floorperiods and committee work periods. The session schedule, which sets the dates

for these, is adopted by joint resolution of both houses at the beginning of the session. The schedule also sets the final date for delivery of enacted bills to the governor.

A floorperiod may be convened earlier or extended beyond its scheduled ending date by the majority of the membership in each house or a majority vote in the organization committee of each house. Similarly, the legislature may call itself into “extraordinary session” during any of the scheduled committee work periods. When the legislature calls an extraordinary session or extends a floorperiod, it must specify what business may be considered in those periods. For example, the 2011 Legislature called an extraordinary session for July 19, 2011, on the subject of redistricting, by a motion adopted in the organization committees of both houses.

In addition to the meeting dates set by the legislature itself, the governor is empowered by the constitution to call a “special session” in which the legislature can act only upon matters specifically mentioned in the governor’s call. Regular and special session meetings may occur within the same week or even at different times during the same day.

### **House Officers and Party Leadership**

Each house elects its presiding officers at the start of the session to aid it in conducting its business meetings. Their duties include calling floor sessions to order, announcing the business before the house, and ruling on proper procedure. The presiding officer of the senate is the “president.” In the assembly, it is the “speaker.” The assembly also chooses a “speaker pro tempore” and the senate a “president pro tempore” who may preside in place of the speaker or president, respectively. Although elected by the entire membership of each house, the presiding officer is almost always a member of the majority party.

Political parties play a major role in the selection of presiding officers. Within a house all members of a particular party form a group called a “party caucus,” and, shortly after the general election in November, caucus meetings are held to select candidates for house leadership. Each caucus also selects its party leadership, including a majority or minority leader, an assistant leader, a caucus chairperson, and other officers. During the session, the caucus plays a key role in developing and presenting unified positions for the party on important issues before the legislature.

The senate and assembly each elect a chief clerk and sergeant-at-arms from outside the membership to conduct the administrative business of the house. The chief clerk is responsible for managing the vast amount of paperwork related to the legislative process, including the preparation of the daily journal, daily calendar, the weekly bulletin of proceedings, and the weekly schedule of committee activities. Other duties of the chief clerk include presenting bills to the governor for action, certifying pay and allowances for legislators and legislative employees, and serving as custodian of official records.

Under the direction of the presiding officer, the sergeant-at-arms of each house maintains order in the chambers, the galleries, and adjoining areas. That office also assigns rooms for legislative hearings and other meetings, supervises the pages who carry messages and documents for the legislators, and sees to the distribution of documents to all members.

## The Role of Committees

The standing committees are the workhorses of the Wisconsin Legislature. In Woodrow Wilson's words, they may be thought of as "little legislatures." Each committee considers bills that are within its jurisdiction. A committee on transportation may handle bills on aeronautics or highway construction. A committee on environmental resources may hear bills on utility regulation or air pollution.

**Standing committees** are established by the rules of each house (Assembly Rule 9 and Senate Rule 20). They may be changed only by resolution. In 2013, for example, the assembly repealed and recreated the list of standing committees through Assembly Resolution 2.

The senate president and assembly speaker are responsible for referring newly introduced bills or resolutions to the appropriate standing committees, but each committee, on its own initiative, may hold hearings on other matters within its subject jurisdiction. Committee chairpersons also may appoint subcommittees to consider specific subjects.

There were 17 standing committees in the 2013 Senate. Because the senate has fewer committees than the assembly, each must cover a wider variety of subjects. One senate committee, for example, dealt with workforce development, forestry, mining, and revenue.

In the 2013 legislative session, the senate did not stipulate the number of members on its standing committees, but its rules did require that majority and minority party membership on each committee must be proportionate to representation of the two major political parties. When selecting minority party committee members, the appointments are based on the nomination of the minority party leader. The Committee on Senate Organization, an *ex officio* body composed of the president and the majority and minority leaders and assistant leaders, nominates the committees and their chairpersons. The majority leader, as chairperson of the organization committee, makes the appointments.

The 2013 Assembly had 41 standing committees. Assembly committees are more numerous, and, as a result, their subject areas may be narrower. One committee dealt with urban and local affairs while another handled urban education. There also were separate committees on natural resources and sporting heritage, and environment and forestry.

In the assembly, the speaker appoints committee chairpersons, vice chairpersons, and members, but minority party members must be nominated by the minority leader. As in the senate, assembly rules do not stipulate the number of members on the standing committees. In most cases, the speaker determines committee size. Two exceptions are the Committee on Assembly Organization, an *ex officio* committee consisting of the speaker, the speaker pro tempore, the majority and minority leaders, the assistant leaders, and the caucus chairpersons; and the Assembly Committee on Rules consisting of the Committee on Assembly Organization plus one majority party member and one minority party member appointed by the speaker.

Certain organizational committees function primarily as housekeeping or service committees to handle matters of internal operation in each house. The Committee on Senate Organization and the Assembly Committee on Rules deal principally with calendar scheduling, although they may also serve as standing committees. Giving these committees status as standing committees allows them to hold hearings and perform the same functions as other standing committees.



The organizational committees determine the number of employees for their respective houses and the types of duties assigned to them. They may recommend proposals for introduction in special or extraordinary sessions, establish administrative policies for their houses, supervise printing, request attorney general opinions, and examine legislative citations for appropriateness.

While each house has the authority to create its own standing committees by rule, **joint standing committees** are established by joint rule or specific statutory authority. Joint committees may result from joining the standing committees of the 2 houses. In other cases, they consist of specified *ex officio* members or a combination of *ex officio* and appointed members. Some joint standing committees and joint committees include nonlegislators.

The 2013 Legislature had 10 joint standing committees. In the Joint Committee on Finance, the Joint Legislative Audit Committee, and the Joint Committee on Administrative Rules, membership consisted of the paired standing committees on finance, audit, and administrative rules. The assembly committee chairpersons serve as cochairpersons of the joint committees; cochairpersons from the senate are appointed by the chairperson of the Committee on Senate Organization (the majority leader).

Two joint committees have only *ex officio* members. The Joint Committee on Legislative Organization is comprised of the senate president, the assembly speaker, and the majority and minority leaders and assistant leaders from each house. The Joint Committee on Employment Relations consists of the presiding officers and majority and minority leaders from each house, plus the cochairpersons of the Joint Committee on Finance.

The list of joint standing committees includes 2 “joint survey” committees: the Joint Survey Committee on Retirement Systems and the Joint Survey Committee on Tax Exemptions. Each of these has 6 legislative members (2 majority party members and one minority party member from each house appointed in the same way as members of standing committees) and both include nonlegislative members. In the case of the Joint Survey Committee on Retirement Systems, the nonlegislator members are the secretary of employee trust funds, representatives of the attorney general and insurance commissioner, and a public member appointed by the governor. The nonlegislative members of the Joint Survey Committee on Tax Exemptions include representatives of the Department of Justice and the Department of Revenue and a public member appointed by the governor.

**Special or select committees** differ from standing committees in that they are established by resolution and cease to exist when their appointed task is completed. They also are not listed in the house rules. These types of committees have not been commonly used since the 1990s.

The last type of legislative committee is the **conference committee**, which has very specific duties. A conference committee is appointed when the 2 houses cannot agree on a final version of a bill. It consists of 6 members, 3 from each house. The committees must consist of 2 majority party members and one minority party member from each house. A conference committee produces a report that cannot be amended. This report, which may incorporate simple amendments or a substitute amendment, must be adopted or voted down as a whole.

In the U.S. Congress and many state legislatures, standing committees have permanent staffs. As a rule, Wisconsin legislative committees do not have attached staff, although each committee usually has the services of a clerk who works for the committee chairperson and



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## 2013 SENATE BILL 323

October 2, 2013 - Introduced by Senators HANSEN, LEHMAN, RISSE, L. TAYLOR and HARRIS, cosponsored by Representatives JORGENSEN, BERCEAU, GENRICH, SARGENT, POPE, RINGHAND, C. TAYLOR, SINICKI and BILLINGS. Referred to State and Federal Relations.

1 AN ACT to create 16.54 (15) of the statutes; relating to: the return of federal  
2 funds to the federal government.

### *Analysis by the Legislative Reference Bureau*

Current law permits the governor, as well as other executive branch agencies, to accept federal funds on behalf of the state and its political subdivisions. This bill provides that no moneys made available to, and accepted by, the state from the federal government, the expenditure of which may increase employment in this state, may be returned to the federal government without the approval of the legislature by law.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3 SECTION 1. 16.54 (15) of the statutes is created to read:  
4 16.54 (15) No moneys made available to, and accepted by, this state from the  
5 federal government, the expenditure of which may increase employment in this  
6 state, may be returned to the federal government without the approval of the  
7 legislature by law.  
8 (END)

### Senate Bill 323.

or the Legislative Council. The bill is labeled as an “assembly bill” if introduced by a representative or standing committee of the assembly or a “senate bill” if introduced by a senator or a standing committee of the senate. Joint committees and the Legislative Council may introduce bills in either house. The house in which a bill is introduced is called its “house of origin.”

Any changes to a bill while it is under consideration are made by **amendments**. There are 2 types of amendments. A “simple” amendment affects only part of a bill, usually by deleting or adding language. A “substitute” amendment is designed to entirely replace the original bill. It is usually used when the proposed changes are complicated or too numerous to be made by a simple amendment. Simple amendments may be used to make changes in substitute amendments just as they are made in original bills. Simple amendments may also be offered to amend previous simple amendments.

If passed in identical form by both houses and signed by the governor, a bill becomes a **law**, or “act of the legislature.” If no action is taken on a bill within 6 days (excluding Sunday)

a Legislative Council attorney or analyst who assists all committee members. One exception is the Joint Committee on Finance, which is staffed by the Legislative Fiscal Bureau.

### **Legislative Documents**

The legislature publishes a number of documents at various stages in its work, some of which are part of the legislative process and others that are designed to keep the general public informed. The legislative documents that attract the most attention and are the chief focus of the legislative process are **bills**. The purpose of a bill is to propose a change to the state’s existing laws. It may create new law or amend old law and it must be carefully written in proper legal language. By law, all bills introduced into the legislature must be drafted by the Legislative Reference Bureau (LRB). This process will be described in detail later.

A bill may be introduced by a legislator, a legislative committee,

after it is presented to the governor, it becomes law without signature. The governor may decide to “veto,” or reject, a whole bill or part of a bill depending on its contents. A “partial veto” is permitted if the bill contains an appropriation. In the case of a partial veto, the part of the bill that is not vetoed becomes law. If the governor vetoes a bill in whole or part, it is returned to the legislature with a written **veto message** in which the governor gives the reasons for the action. The legislature may override the veto by a two-thirds vote in each house and the language that is approved by this joint action becomes law.

Once a bill is enacted, the Legislative Reference Bureau publishes the act the next day. Later, the secretary of state publishes a notice of enactment in the **official state newspaper**. The official state newspaper is designated by a joint resolution of the legislature and continues in that status until a new designation is made. The *Wisconsin State Journal* has been


the official state newspaper since July 1, 1996, based on 1995 Senate Joint Resolution 60 (Enrolled Joint Resolution 26).

The laws, which have been formally called “acts” since the 1983 Legislature, are numbered in the order in which they became law, either by the governor or without approval. The first bill signed into law in the 2013 Legislature became “2013 Wisconsin Act 1,” and all other bills enacted during the 2013-2014 biennium were numbered consecutively and called the 2013 Wisconsin Acts. At the end of each legislative session, all acts are published in volumes called the *Laws of Wisconsin*, also known as the “session laws.”

What most people think of as “state law” is the cumulative body of legislative acts officially called the *Wisconsin Statutes*. The statutes represent the set of laws currently in effect as they have evolved through legislative

changes since Wisconsin became a state in 1848. Under Wisconsin’s system of statutory revision, the statutes are revised biennially and published by the Legislative Reference Bureau at the end of each legislative session to reflect all changes made by the laws passed by the most recent legislature. Thus, the statutes are updated continuously to reflect new legislation. When the legislature introduces bills to amend or add to the current statutes, they reference

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2013 Assembly Bill 2

Date of enactment: **March 13, 2013**  
Date of publication\*: **March 27, 2013**

## 2013 WISCONSIN ACT 2

AN ACT to create 66.1105 (6) (am) 2. f. of the statutes; relating to: extending the expenditure period for a tax incremental district in the city of Marinette.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 66.1105 (6) (am) 2. f. of the statutes is created to read:

66.1105 (6) (am) 2. f. Expenditures for project costs for Tax Incremental District Number 3 in the city of Marinette. Such expenditures may be made through July 2, 2018.

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\* Section 991.11, WISCONSIN STATUTES 2011-12: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].



the most recent edition of the statutes. For example, bills introduced in the 2013 Legislature proposed changes to the 2011-12 *Wisconsin Statutes*.

To determine “what’s the law” about a particular subject, it is necessary to check the most up-to-date version of the statutory section in question. For example, Wisconsin’s law restricting smoking in most nonresidential buildings and on public transportation is set forth in Section 101.123 of the 2011-12 *Wisconsin Statutes*. However, because acts of the legislature can, and often do, take effect before the next biennial publication of the statutes, it is necessary to check all relevant laws passed in the current legislative session to determine current statutory law on a particular subject. The person checking on the clean indoor air law would have to determine whether the 2013 Legislature had taken any action to date affecting s. 101.123. (There are other sources of law beyond the acts passed by the legislature, e.g., court decisions and administrative rules promulgated by executive agencies.)

Each session the legislature adopts a number of resolutions, which may be **joint resolutions** approved by both houses or **simple resolutions** requiring action in only one house. These are legislative proposals that do not enact laws and do not require the approval of the governor. Joint resolutions may propose amendments to the Wisconsin Constitution, ratify amendments to the U.S. Constitution, or adopt joint rules that affect the conduct of business involving both houses, such as the joint resolution used to set the legislature’s session schedule. They also may serve as official communications of the legislature. For example, the legislature uses joint resolutions to request the U.S. Congress or the President to act (or refrain from acting) or to ask the federal government to study subjects of public concern. It also uses them for special recognition of public service.

Simple resolutions, which affect only one house, chiefly deal with procedural matters, especially the rules under which each house operates. For example, a resolution may be used by one house to change the number and names of its standing committees. A simple resolution is formally identified as an assembly resolution or a senate resolution.

Since 1955, Wisconsin has required that any bill that increases or decreases state revenues must receive a **fiscal estimate** (also referred to as a “fiscal note”). The Wisconsin Legislature was the first in the nation to require this type of fiscal analysis. Today, the practice is followed in a majority of states. The fiscal estimate requirement was extended to bills affecting the fiscal liability or revenue of counties, cities, villages, or towns in 1971, and bills modifying court surcharges in 2003.

Section 13.093 (2), Wisconsin Statutes, provides that a bill that makes an appropriation or that increases or decreases existing appropriations or state or general local government fiscal liability or revenues must receive a fiscal estimate prior to committee action or prior to a floor vote if the bill is not referred to committee. The executive budget bill does not require this type of a fiscal estimate, but extensive fiscal information concerning the bill is routinely published by both the Department of Administration and the Legislative Fiscal Bureau. The fiscal estimate requirement applies only to original bills. Estimates generally are not prepared for amendments or substitute amendments.

In addition to the official documents, such as bills and amendments that are directly involved in passage of a law, the legislature publishes a number of supplementary documents to assist the legislative process and keep the general public informed. The appendix to this article contains a more detailed description of the resources available.


The *Bulletin of the Proceedings of the Wisconsin Legislature* lists introduced bills by their house of origin, subject matter, and authors' names. The *Bulletin* also includes a subject index of acts (laws) passed during the session and a numeric index of statutory sections affected by enactments of the current legislature. Other *Bulletin* features are an alphabetical listing of registered lobbyists and the organizations they serve and a list of the lobbyists' principals (organizations that hire lobbyists). This list is maintained by the Government Accountability Board online at <http://lobbying.wi.gov>. A separate section lists proposed administrative rules submitted by administrative agencies for legislative approval. The bulletins are cumulative and are generally issued weekly during legislative floorperiods and occasionally during committee work periods. Sections of the *Bulletin* are available online at the legislative documents site, <http://docs.legis.wi.gov>.

Each legislative house publishes a **daily journal** as required by Article IV, Section 10, of the Wisconsin Constitution. In practice, the term “daily” journal means daily when the

legislature is in session during a floorperiod. Even then, the legislature often holds sessions Tuesday through Thursday only, except when there is a large amount of business toward the end of the floorperiod. Although this causes gaps in dates, the journals do record all official actions on legislative proposals and amendments, roll call votes, committee assignments and reports, procedural motions and rulings, and executive messages. The journals are the main source for tracking a legislator's position on the issues, although the online documents site has begun indexing votes for the 2013 session.


In order to provide notice of public hearings, the legislature publishes a *Weekly Schedule of Committee Activities*. It lists the time and place of legislative committee hearings for the coming week, the proposals scheduled for hearings, and meetings of Legislative Council study committees, and it includes an “advance

notice” section for hearings on special issues or proposals in coming weeks. It is available online at <http://committeeschedule.legis.wi.gov>.



State of Wisconsin

## SENATE CALENDAR



One-Hundred and First Regular Session  
Tuesday, January 15, 2013  
11:00 A.M.

First Order.	Call of Roll.
Second Order.	Chief clerk's entries.
Third Order.	Introduction, first reading and reference of proposals.
Fourth Order.	Report of committees.
Fifth Order.	Petitions and communications.
Sixth Order.	Referrals and receipt of committee reports concerning proposed administrative rules.
Seventh Order.	Advice and consent of the Senate.
Eighth Order.	Messages from the Assembly.
Ninth Order.	Special Orders.
Tenth Order.	Consideration of motions, resolutions, and joint resolutions not requiring a third reading.

QUESTION: Shall the resolution be adopted?

Senate Resolution 2. Relating to: the senate rules. By Senators S. Fitzgerald, Ellis and Grothman.

QUESTION: Shall the joint resolution be concurred in?

Assembly Joint Resolution 1. Relating to: commending the Eagle River World Championship Snowmobile Derby on its 50th anniversary. By Representatives Swearingen and Kaufert; cosponsored by Senators Tiffany and Moulton.

Eleventh Order.	Second reading and amendments of senate joint resolutions and senate bills.
Twelfth Order.	Second reading and amendments of assembly joint resolutions and assembly bills.
Thirteenth Order.	Third reading of joint resolutions and bills.
Fourteenth Order.	Motions may be offered.
Fifteenth Order.	Announcements, adjournment honors, and remarks under special privilege.
Sixteenth Order.	Adjournment.

Each house issues a daily calendar, which serves as an agenda for each day that the house meets on the floor. It lists orders of business and proposals being considered for action. The calendar contains the relating clause, authors, committee recommendation, and any previous floor action for each proposal listed. If not available at the legislative documents site on the day of the meeting, it is usually available at the assembly or senate InSession Web site, <http://insession.legis.wi.gov>.

### III. "THERE OUGHT TO BE A LAW" – SOURCES OF IDEAS FOR LEGISLATION

In the January of each odd-numbered year a new legislature is seated at the State Capitol. The new members are sworn in, the houses are organized, and the lawmakers are ready to enact anywhere from 200 to 500 new laws during the biennial session. However, it is the voters who elect the 132 members who play the key role in deciding what kinds of laws will be passed.

#### Citizen Input

The citizens of Wisconsin constitute the major source of ideas for new legislation. New policy proposals often result from everyday situations they encounter in their own communities. If they think that they need property tax relief or that the business climate could be improved or steeper penalties for traffic infractions should be implemented, they may decide "there ought to be a law." An individual may write a letter to the editor of a newspaper or contact an assembly representative, senator, or the governor about it. An association to which the person belongs may hire a spokesperson, called a "lobbyist," who will urge introduction of a bill and testify at legislative hearings about the association's point of view.

A legislator is elected to represent the citizens of a particular district, who are known as his or her "constituents." While legislators are asked to introduce bills by numerous individuals and groups, a request from a constituent often is given high priority because that person has the ability to vote directly for the legislator and to influence other people's votes.

On the other hand, if a constituent's legislator is opposed to a policy change, it may be necessary to locate a sympathetic legislator who will sponsor the bill. Helpful sources in searching for a supportive representative or senator include the *Wisconsin Blue Book*, which contains biographical information on all legislators, and the *Bulletin of the Proceedings of the Wisconsin Legislature*, which lists bills by subject and author. For example, if a constituent wants a bill introduced that would limit the ownership of firearms, the legislator who is a member of the National Rifle Association or who has voted in favor of concealed-carry laws would not be a logical candidate. Someone who wants to ease restrictions on occupational licenses for persons convicted of drunk driving might find the author of bills to provide more severe penalties for drunk driving very unsympathetic.

Not every problem brought to a legislator's attention results in a bill draft. Many resist legislative solution because there is no agreement on the definition of the problem and little or no agreement on a solution. The matter may be one that has to be resolved privately in the courts or at the federal or local level of government. Sometimes a statute already exists on the subject and the constituent merely needs information about the existing law. The legislator's role, in this case, may be to find the right official or agency to answer the constituent's questions.

Drafting a bill may be appropriate when a statutory solution would answer a question that is not addressed by current law. For example, e-cigarettes have been around for a few years without clear laws on their regulation. The growing popularity of “vaping” and questions about its health ramifications has led to the suggestion that these particular items should be treated like regular cigarettes. A sympathetic legislator might agree to request such a bill draft.

In Wisconsin only a legislator, a legislative committee, or the Legislative Council can introduce a bill in the state legislature. Others, including the governor, may request legislation but cannot directly introduce bills. The closest a governor comes to introducing legislation is by submitting the biennial executive budget in bill form to the Joint Committee on Finance, which must then introduce it without change.

Unlike many other states, Wisconsin does not have an initiative process on the state level that allows citizens to bypass the legislature. An initiative process permits voters to propose legislation and seek its formal enactment either directly by majority vote in a statewide referendum (vote) or indirectly by first submitting it for legislative action and then having it move to a referendum if the legislature fails to pass the proposal.

Currently, 24 states have an initiative process, either direct or indirect. Colorado and Washington used the initiative process in 2012 to decriminalize recreational marijuana use.

Proposals to amend the Wisconsin Constitution to allow an initiative process have often been introduced in the Wisconsin Legislature. A proposed constitutional amendment to permit law-making by initiative and referendum received legislative approval in 1911 and 1913, but failed voter ratification by a vote of over 2 to 1.

### **Formal and Informal Lobbying**

Citizens may form associations whose primary focus is legislation dealing with a single issue. For example, individuals who have strong views on one side or the other about charter schools may form organizations to promote their point of view. In Wisconsin, some organizations employ professional lobbyists.

In other cases, groups depend on their own volunteer efforts. For example, voluntary associations concerned with the sale of raw milk may make legislative contacts related to their particular topic. Local historical societies trying to promote materials for the teaching of Wisconsin and American history in the public schools may phone or write to their legislators. These activities may be considered “informal” lobbying since they rely on volunteers rather than professional lobbyists, but they often are effective because many of the association members are also constituents.

An interest group is a more formal type of association that focuses on legislative activity. Interest groups, such as a bankers’ association, a group of deer hunters, or an environmental organization, or a teachers’ union make numerous requests to legislators for bill drafts. Usually these requests are made through lobbyists who are agents of the interest groups. (Interest groups that hire lobbyists are referred to as “principals.”) The job of the lobbyist, who may be employed on a continuing basis as a full-time paid professional, is to convince a legislator of the value of the various policies supported by the interest group.

Some lobbyists are themselves members of the interest group represented, such as a trade association. Others contract to represent many diverse interest groups, as a paid ser-



vice, without being committed as a member. Some lobbyists began their careers as volunteers for interest groups and were willing and able to spend significant amounts of personal time at the Capitol talking to legislators.

To be effective, lobbyists must understand the concerns of the groups they are representing and have detailed knowledge of both the legislators and the legislative process. It takes years to gain this expertise. Many successful lobbyists have been active participants in the legislative process. They may have been legislators themselves or have worked as legislative aides or in legislative service agencies. Their legislative experience may relate directly to the concerns of the interest groups they represent. Other persons develop expertise outside the legislature on specialized issues, such as medical care, and then are hired to lobby for a group interested in those issues. The outside expert will have to learn the “legislative ropes” in order to become an effective lobbyist.

Lobbyists represent the economic interests of business and labor associations, professional societies, and local governments before the legislature. Effective lobbyists provide a valuable connection between lawmakers and organized groups. They know the concerns of their groups and understand the policy issues. They have the resources and time to gather information that may help the legislature in making important policy decisions. They serve as good communication links because they spend considerable time learning about the policy positions and interests of legislators so they can match them with the concerns of the groups they represent.

Enforcement of Wisconsin’s lobbying laws has focused both on the actions of lobbyists and the response of legislators. With certain exceptions, state law prohibits lobbyists and principals from furnishing lodging, transportation, meals, beverages, money, “or any other thing of pecuniary value” to any legislator, legislative employee, candidate for legislative office, or candidate’s campaign committee. On the reverse side, it is illegal for any of these persons or groups to accept anything of “pecuniary value” from a lobbyist or a principal. While lobbyists may make campaign contributions, they may do so only under certain restrictions. The Government Accountability Board registers lobbyists and regulates their activities.

### **State Agency Liaisons**

State agencies are another source of public policy ideas. Because agencies are involved in administering current programs, they are in a natural position to see how policies are working. They know firsthand whether programs need to be changed, expanded, or abandoned altogether. Agency heads often have opportunities to discuss their problems and perspectives with the governor. They are frequently invited to contribute expert testimony at legislative hearings.

Persons representing individual state agencies, such as the Department of Natural Resources, the Department of Revenue, or the Public Service Commission, may request that bills be drafted, but they must seek introduction through a legislator or legislative committee. These governmental lobbyists, often called “legislative liaisons,” are very important to the legislative process. They are often responsible for assessing the administrative and fiscal impact of proposed legislation. Their familiarity with agency policy and procedure can be useful to legislators developing legislation. Committees work closely with legislative liaisons representing agencies that may be impacted by bills assigned to the committee.



## Local Government Representation

Local units of government are often represented through statewide organizations, such as the Wisconsin Counties Association, the League of Wisconsin Municipalities, the Wisconsin Towns Association, or the Wisconsin Association of School Boards. These groups give legislators information from local units back in their districts, and many have professional staffs in Madison that lobby on their behalf. Bills that affect the minimum wage, industrial development, school financing, and mining draw considerable attention from local officials and their paid lobbyists.

Many legislators have gained their own practical experience in local government as mayors, members of city councils, town or village board members, or county board supervisors. Out of 33 members serving at the opening of the 2013 Senate, 17 had experience as elected officials in local government. In the 2013 Assembly, 48 of 99 members had such experience. This relationship provides the local groups with better access to the legislator and a better chance to influence decisions about introducing a bill.

## Task Forces and Research Committees

Topical task forces and research committees are also good sources of public policy ideas. When the legislature encounters a complex, and perhaps controversial problem, it frequently forms a research committee in an effort to find a solution. The legislature or its individual members may submit formal requests for committee research to the Joint Legislative Council, which consists of 22 legislators. Because of the number of requests, the council usually is permitted to choose the subjects it will study. It appoints committees to develop bill drafts that deal with specified policy areas. Council committees usually include both legislative and nonlegislative members, and they may also request testimony from other experts and interested parties.

Over the years, the Legislative Council has submitted a number of major statutory revisions for legislative approval, including changes in the criminal code, motor vehicle laws, and child custody procedures. It also has been responsible for developing sections of the law to cover new state policy, such as emergency management and the continuity of government.

The governor or legislative leaders may decide to appoint citizen task forces to study various problems and recommend new legislation. Some task forces have offered broad recommendations that have resulted in extensive changes, ranging from the 1967 reorganization of state government to a restructuring of Wisconsin's income tax. Other task forces may focus on a very specific task, such as recommending changes in mental health commitments and rural school standards.

## Other Sources of Ideas

Legislators concerned with a specific policy change find various sources of useful information including laws enacted by other states, ideas developed by the federal government, and reports from private foundations or associations that conduct research on particular problems. National organizations specifically concerned with state government and state legislation, such as the Council of State Governments and the National Conference of State Legislatures, publish books, reports, and periodicals on recent trends and state action in critical fields. Through these contacts and attendance at regional and national conferences, leg-

islators learn about innovations in other jurisdictions that might be adapted to Wisconsin's needs.

Private organizations, such as the American Bar Association, and interstate organizations of public officials, like the Uniform Law Commission, prepare uniform acts or model legislation for possible state adoption. For example, Wisconsin's commercial code and marital property laws were both adapted from proposed uniform laws.

Besides the outside sources just described, ideas for new laws may be drawn from internal sources. A drafting request may be based on a bill that was introduced but failed to pass in a previous legislative session or on provisions deleted from another bill passed in the current session. Proposals that were removed from a large and complex bill, such as a budget bill, often will appear later as separate requests. It may take more than one session for a bill to reach final passage, and some proposals are introduced and revised several times before they are approved and enacted into law. Laws related to installing ignition interlock devices on motor vehicles for OWI offenders were introduced in bills dating back to the 1987 session, but did not pass until the 1999 session.

Another internal source for bill ideas are the audit reports submitted by the Legislative Audit Bureau. The bureau audits and reports on the financial transactions of state agencies at the State Auditor's discretion or as the Joint Legislative Audit Committee directs. The bureau also conducts performance audits on particular programs at the request of the Joint Legislative Audit Committee, on the initiative of the bureau's staff, or because an audit was required by legislation. The Joint Legislative Audit Committee reviews the bureau's reports and may introduce legislation in response to audit recommendations.

Occasionally, legislation may be introduced as a result of the administrative rules process. An administrative rule is a regulation, standard, policy statement, or order promulgated (officially created) by a state agency to enforce or administer a law, and it has the same effect as a law passed by the legislature. Legislative committees review administrative rules proposed by state agencies. If the Joint Committee for Review of Administrative Rules objects to a proposed rule, it must introduce a bill in each house within 30 days to prevent the rule from being promulgated. The joint committee may also suspend an existing rule based on a public hearing and the standards set in the Wisconsin Statutes. The committee must introduce a bill in each house within 30 days of the suspension.

#### IV. PUTTING AN IDEA INTO WORDS – THE BILL DRAFTING STAGE

Introducing a bill is not an action a legislator takes lightly. No matter what the source of a request, a legislator has to be convinced before introducing a bill draft that the issue is important and legislative action is appropriate. Passage of a bill is a difficult task and a highly visible action that may impact the lawmaker's chance for reelection. The wise legislator will certainly weigh the consequences in advance. In order to allow a legislator to review an idea, a bill draft is not public information until it is introduced. However, once the bill is introduced and printed, the legislator's name is permanently associated with the bill as a matter of public record. Sometimes a legislator may request a bill draft at a constituent's urging and later decline to introduce it if the prospects for passage are not favorable.

## Legislative Reference Bureau Drafting Services

Once a legislator has decided to support a proposal for a new law, it must be put into the form of a bill. By law, a bill must be drafted by the Legislative Reference Bureau (LRB) before it is introduced in the legislature. The LRB is a nonpartisan legislative service agency responsible for providing research, library, and bill drafting services to the legislature. Restricting the drafting of bills to a professional agency within the legislative branch ensures that the statutes are worded and organized in a uniform and consistent manner and that they carry out the requester's intent. This means that the laws the legislature passes will be more easily understood by the public and by those responsible for interpreting and applying them, such as governmental agencies, attorneys, and judges.

The list of individuals who are authorized to use LRB drafting services is restricted to legislators and legislators-elect, the assembly and senate chief clerks, and the governor. Agencies and organizations with drafting privileges include the Legislative Council, the Legislative Fiscal Bureau, and state agencies.

The formal initiation of a bill draft begins when an individual or agency contacts an LRB drafting attorney to request a draft. This is often done by telephone or e-mail, but a requester may also file a drafting request form with the LRB. When an LRB drafting attorney receives a request, he or she opens an electronic drafting folder, using specialized drafting software, as well as a physical drafting file. The proposal is assigned an LRB number that stays with the draft (or bill, if the draft is introduced) throughout its legislative life. When opening an electronic drafting folder, the drafting attorney enters information such as the date the request was received, the person requesting it, the attorney handling the draft, a short description of the proposal, and any specific instructions. This information is printed on a cover sheet that stays with the physical drafting file.

The LRB drafting attorney prepares a draft using the bill drafting software. After the attorney is finished, the editing and proofreading support staff review the draft and refer to the attorney any changes that may be needed. The support staff will mark approved changes on a hard copy of the draft and prepare an updated electronic version that reflects those changes. The draft is then returned to the requester by both e-mail and legislative page. The physical drafting file and the electronic drafting folder remain at the LRB.

The LRB is required by statute to keep any drafting request confidential until the draft is introduced in bill form, unless the requester waives confidentiality or gives permission to the bureau to disclose the draft's contents to a specific person or to a specific group, such as "all Republican Senators." Sometimes a bill draft is publicized in the press by the requester or one of the draft's prospective sponsors, but the LRB still must maintain confidentiality until introduction if there has been no formal waiver from the author. Drafts are frequently used as a basis for discussion in legislative committee hearings, but the bureau still cannot release the bill or information from the bill file without the permission of the requester.

Once a draft is introduced as a bill, the entire drafting file, including materials used by the attorney in preparing the draft, becomes a public record. The LRB is the official custodian of these files, which date back to 1927. The minimum contents of the drafting file are the request to draft a bill and the bill draft itself. In addition, many drafting records contain drafting and redrafting instructions, working drafts, e-mails between the drafting attorney and the requester or other persons referred to the drafter by the requester, the drafting at-

torney's notes of conversations with the requester, and other material used in preparing the proposal. This record is often useful to the legislature, the courts, administrative agencies, and the public in determining the legislative history or intent of a proposal. Generally, drafting material received after a proposal has been introduced cannot be placed in the drafting record because the material was not considered at the time of the drafting process and does not reflect the intent of the requester.

Requests for bill drafts are often presented in general terms. A legislator may be responding to a constituent's concern that sprinkler use by property owners is wasting water resources. He or she may request a bill draft that restricts sprinkler use to certain times of the day. To ensure that the draft meets the requester's intent, the attorney may need to clarify several issues:

- 1) What type of property would be under the restriction?
- 2) What are the set hours and who will enforce them?
- 3) Will fines be directed to any increased enforcement costs?
- 4) If there are monetary penalties, what are they based on?
- 5) What type of sprinkler equipment is subject to the restrictions?

Often a requester will refer the drafting attorney to someone else who has expertise on the subject matter of the draft and give the attorney specific permission to discuss the subject with that person.

Bill drafts vary widely in their complexity and scope. A bill that makes a minor change to existing law may require little research and be drafted quickly. On the other hand, a major proposal that creates an entire program with new statutory language may require weeks or months of research and writing.

On occasion, because a requester's proposal is too general or the subject matter very complex, the drafter prepares a preliminary draft, called a "P draft," to initiate the drafting process. A preliminary draft is not a complete bill draft and cannot be introduced in the legislature. It usually focuses on the more critical parts of the proposal, leaving other parts to be drafted later. The advantage of preparing a preliminary draft is that it enables the attorney to produce a text that the requester can use as the basis for discussion and for further development of the proposal. Also, because the drafter can prepare a preliminary draft more quickly and immediately pose the difficult drafting questions, it may save everyone time and effort.

After the intent of the proposal is settled, the drafting attorney must determine the drafting approach that will best accomplish that purpose. This often involves using a combination of the attorney's experience and research. For example, if an attorney has been drafting in an area of law for several years, he or she might remember a similar proposal from the past, locate that proposal, if appropriate, and use it as a starting point for the current draft. The attorney must also conduct any necessary research. Most research involves searching existing Wisconsin statutes to determine how the proposal affects current law and whether or not it would conflict. For example, if a requester wants to lower the legal drinking age from 21 to 19, this apparently simple change has other implications. Current law defines the legal drinking age as "21 years of age." Licenses to sell alcoholic beverages require the person to "have attained the legal drinking age." If the draft simply changes the drinking age to 19, it would also lower the age for obtaining a license to sell alcoholic beverages. This change may

not be what the requester wanted. The requester needs to understand how changes in one portion of the statutes will impact other provisions.

Preparatory research may lead the drafter into many areas: state administrative rules, federal statutes, state and federal court cases, state and federal constitutional issues, underlying common law principles, and prevailing social or business practices. The drafter may find it useful to research the laws of other states and to examine nonlegal background material. Often the attorney is required to know state agency procedures or technical subject matter not included in the statutes. For example, a proposal that would affect insurance laws may require an understanding of insurance marketing and its regulation.

When the draft is complete and returned to the author, the attorney may decide to attach a drafter's note explaining or questioning parts of the draft. Providing useful information to the requester or raising discussion questions may lead to a request for a redraft.

It is not unusual for a proposal to be redrafted several times before the requester is satisfied that it accomplishes its intended purpose and is ready for introduction. The number of drafts prepared is indicated by a slash mark and numeral that immediately follows the LRB number. This identifying information is printed in the upper right corner of each page of all drafts. Accordingly, a draft that contains a slash followed by a "4" (e.g., LRB-0999/4) is the fourth version of that draft. Once a draft is introduced as a bill, it cannot be redrafted. Any later changes must be by amendment.

### **Fiscal Estimates**

The decision that a bill requires a fiscal estimate is made initially by the LRB drafting attorney after completing the bill draft. The author who has requested the bill may seek a fiscal estimate prior to introduction while both the bill and estimate are confidential. This allows the author to make changes before the measure undergoes public scrutiny, and it may influence the requester's strategy. For example, if the proposal receives a high estimate that might prevent its passage, the author may decide it is better to trim it down to get a bare-bones version approved instead.

If the LRB attorney has determined the bill needs a fiscal estimate and the estimate has not been sought prior to introduction, a copy of the bill must be sent to the Department of Administration, which is responsible for securing the required estimate following introduction. The department selects the state agency best able to make a reliable estimate of the dollar costs associated with the proposal. Under Joint Rule 46, state agencies must develop fiscal estimates within 5 working days. In practice, preparation may take longer, and joint rules allow the Department of Administration to extend the period to not more than 10 working days.

Any agency that will receive an appropriation, collect revenue, or administer a program created by the bill or that has substantial knowledge about the bill's fiscal impact may be asked to prepare an estimate. Consequently, many bills have more than one estimate attached. The completed fiscal estimate is given to the bill's primary author for evaluation. A bill author who disagrees with an estimate may request that the agency revise it. If the agency does not agree to the revision, the estimate is printed and the primary author may ask either the Department of Administration or the Legislative Fiscal Bureau to prepare a supplemental estimate.



When a bill that has not received a fiscal estimate is on the floor of either house, any member may raise the issue that the bill requires one. As with all points of order, the presiding officer rules upon the question. If the officer agrees an estimate is needed, the LRB may be ordered to secure one.

There was such a request on a bill in the 2005 session, and the presiding officer ruled that a fiscal estimate was not required. (Like other rulings, the ruling of the presiding officer may be appealed to a vote of the house.) Senator Risser attempted, unsuccessfully, to raise a point of order as to whether 2005 Senate Bill 567 required a fiscal estimate. The bill proposed that any person who applied for public assistance must, as a condition of eligibility for that program, provide documentary proof of citizenship or satisfactory immigration status. The Senate President ruled against the point of order. Risser appealed the ruling and a roll call vote determined that the ruling stood.

### **Bill Format**

The contents of a bill must be organized in a specific format to ready it for introduction. The first part of the bill is considered its title. The title sentence opens with the words "AN ACT to," followed by a list of the statutory provisions treated by the proposal, and concludes with the phrase "relating to" and an explanation of the general subject matter of the bill. This final segment of the title, which verbally describes the subject matter of the bill, is known as the "relating clause."

Beginning with bills drafted for the 1967 Legislature, the LRB has prepared an analysis for each bill explaining its substance and effect in plain language. The analysis is printed in the bill following the bill title. With the exception of substitute amendments (discussed later), analyses are not prepared for subsequent amendments, nor is the bill analysis generally revised to reflect amendments that are incorporated later in the legislative process. If a fiscal estimate is required for the bill, the last sentence of the analysis directs the reader to see the state or local fiscal estimate for further information.

The analysis is followed by an enacting clause, which must read, "The people of the state of Wisconsin, represented in the senate and assembly, do enact as follows:." The text of the bill that follows the enacting clause is the law-making part of the bill. It amends, repeals, renumbers, or otherwise affects current law or creates new law. Each statutory provision affected by the bill is treated in numeric order. When a bill amends statutory language, it does so by striking through the language to be deleted and underlining language to be added.

In addition to changes to statutory provisions, many bills contain nonstatutory provisions. If a bill becomes law, all of these provisions are printed as an act of the legislature, but only those sections that affect statutory provisions will be incorporated into the Wisconsin Statutes. Although nonstatutory provisions are not incorporated into the statutes, they have the same effect of law as those that are. Examples of nonstatutory provisions include statements regarding when all or parts of the law will become effective, provisions for studies, mandates to state agencies to write administrative rules within a specified time frame, or provisions that are temporary or limited in scope and do not need to be codified.

## Amendments to Bills

Besides drafting bills, the LRB drafts almost all amendments (the exception is floor amendments). An amendment alters a bill by substituting, inserting, or deleting text. A simple amendment to a bill begins: “At the locations indicated, amend the bill as follows: ...” It tells the reader to go to a certain page and line of the bill and insert or delete certain material. Simple amendments do not have a bill title or an analysis, but they may affect the relating clause of the original proposal.

During the legislative process, as the committees or the houses examine and discuss a bill or receive public testimony and private communications from constituents, the changes may become more complex. A major rewriting of the bill through a substitute amendment may be necessary. In Wisconsin, a substitute amendment takes the place of the original bill. It looks much like the bill and follows a similar drafting process. Although not required, an analysis is generally prepared for the substitute amendment based on a number of factors, such as the degree to which the substitute amendment differs from the bill that it replaces, whether the requester of the substitute amendment has specifically asked for an analysis, and how much time the drafter has to prepare an analysis. The substitute amendment is often prepared when the original requester wants to make substantial changes, but any legislator or legislative committee may introduce a substitute amendment.

In any one session, the majority of drafting requests for bills, joint resolutions, and resolutions do not result in introduction. During the 2011 session, the LRB received 7,312 total drafting requests. Of those requests, 1,400 bills (about 19 percent) were formally introduced. That percentage has remained fairly consistent over the last 5 sessions. Many bill requests and bill drafts are dropped because their subject matter is similar to an introduced proposal or could be better addressed as an amendment to a bill rather than as a separate bill. Some may be dropped because they lack support or the timing is poor. A legislator also may decide to hold a draft for further study and request a redraft in the following session.

### The Drafting of 2011 Wisconsin Act 124\*

The drafting history of 2011 Wisconsin Act 124, relating to accessible instructional materials for postsecondary students with disabilities, offers a good review of the drafting process. In particular, that history illustrates how a proposal is refined, over the course of several sessions if necessary, to address the various issues that come to light in the process of transforming an idea into legislation.

2011 Wisconsin Act 124 began its journey through the drafting process in October 2005, when Representative Donna Seidel requested the LRB to draft a bill mirroring the Kentucky Postsecondary Textbook Accessibility Act, 2003 Kentucky Acts Chapter 49 (*Figure 1*). This drafting request was entered as LRB-3802. Included with the drafting instructions was a letter (*Figure 2*) from a constituent, Mr. Joe Mielczarek, Vocational Counselor at Northcentral Technical College (NTC) in Wausau, to Senator Robert Jauch requesting legislative change to eliminate inaccessibility of print materials as an obstacle to success for college students with reading disabilities. Shortly after submitting the drafting instructions, the representative submitted certain additional documents for the drafter to consider in preparing the

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\*Some images cropped or edited for space. See linked drafting file in online version for full images in pdf form.

Figure 1: Drafting file of 2005 AB-1142.

**LRB-3802**  
03/07/2006 07:48:25 PM  
Page 1

**2005 DRAFTING REQUEST**

**Bill**

Received: 10/06/2005                      Received By: **gmalaise**

Wanted: **Soon**                              Identical to LRB:

For: **Donna Seidel (608) 266-0654**                      By/Representing: **Natalie Verette**

This file may be shown to any legislator: **NO**                      Drafter: **gmalaise**

May Contact:                              Addl. Drafters:

Subject:      **Discrimination**                      Extra Copies:      **PG**  
                 **Higher Education - miscellaneous**  
                 **Higher Education - tech. college**  
                 **Higher Education - UW System**

Submit via email: **YES**

Requester's email:      **Rep.Seidel@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Instructional material in alternative formats for postsecondary students with disabilities

**Instructions:**

See Attached--draft up a WI version of KY 2003 ch. 49 relating to the availability of textbooks and instructional materials in accessible forms for postsecondary students with disabilities.

**Drafting History:**


<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 12/07/2005	csicilia 12/09/2005					State
/1			rschluet 12/09/2005		sbsford 12/09/2005		State
/2	gmalaise	jdtyer	chaugen		lnorthro		State

**Grant, Peter**

---

**From:** Verette, Natalie  
**Sent:** Monday, October 03, 2005 4:46 PM  
**To:** Grant, Peter  
**Subject:** Digital access of printed materials

**Attachments:** Scan001.PDF

  
Scan001.PDF (44 KB)

Peter,

Attached is the background information. Rep. Seidel would like to mirror the Kentucky law referenced in one of the articles. Please contact us with any questions.

Thank you,

Natalie Verette  
Legislative Assistant  
Office of State Representative Donna Seidel 85th Assembly District

State Capitol, 409 North  
P.O. Box 8953  
Madison, WI 53708

Figure 2: Drafting file of 2005 AB-1142.

September 14, 2004

Robert Jauch, Senator  
5271 Maple S. Drive  
Poplar, WI 54864

Regarding: Digital Access Center for Post-Secondary Education in Wisconsin

Dear Robert:

The accessibility of print materials for college students with (reading disabilities i.e. blind, physical and learning disability) has and is a major factor in cost for colleges and graduation success of students in classes and programs. It is our goal through legislative change to eliminate this major obstacle.

In the last issue of America Association of People with Disabilities, Summer 2004, title article reads: *Groundbreaking Report Reveals Major Obstacles to Colleges Access Nationwide for Students with Disabilities*. The report focuses on barriers to equal educational opportunities in higher education and can be found at, [www.ihep.org/SneakPeek.php](http://www.ihep.org/SneakPeek.php)

We know that if Wisconsin can legislate equal access to written materials, i.e. textbooks, students will be more successful and the cost of providing accommodations to students with disabilities will decline.

Sincerely,

Joe Mieleczarek  
Vocational Counselor  
Center for Students with Disabilities

bill draft, including a copy of the Kentucky act, together with copies of 1999 California Assembly Bill 422 and 2001 Arkansas Act 758, which were the models for the Kentucky act; an article and policy brief prepared by the National Center on Accessing the General Curriculum providing background information on the issues involved in providing accessible instructional materials to students with disabilities; and a copy of the current process used by NTC students to request books in alternative text.

Based on the information submitted by the representative, the drafting attorney prepared a draft that: directed the University of Wisconsin (UW) System and the Technical College System (TCS) to jointly establish a state repository for the collection of instructional materials in electronic and alternative

formats, e.g., Braille, large-print texts, and talking books; required publishers to provide, at no additional cost, instructional material in an electronic format to institutions of higher education in this state or the state repository for use by students with disabilities; required those instructional materials to maintain the structural integrity of the original print materials; and provided that refusal by a publisher to provide instructional materials as required under the draft constitutes a violation of the public accommodations law, which prohibits denial of the equal enjoyment of a place of public accommodations on the basis of disability. The representative shared the draft with the constituent from NTC, who indicated that the draft “looks really good,” except that he would like nontextual elements such as pictures, illustrations, graphs, charts, and screenshots included in the definition of “structural integrity.” Accordingly, the drafter prepared a redraft to address the constituent’s concerns, and Representative Seidel, after reviewing the redraft, requested that the draft be jacketed for introduction. LRB-3802 was introduced as Assembly Bill 1142 on March 21, 2006, but the bill failed to pass during the 2005 session.

In August 2006, Representative Seidel requested the LRB to redraft 2005 Assembly Bill 1142 for reintroduction in the 2007 Session. The drafting request was entered as LRB-0169. In her request, the representative indicated that she had met with representatives from the UW System and TCS and that they would like certain revisions to the 2005 bill, including specifying that the state repository would be the central point for processing all requests from institutions of higher education for instructional material in electronic or alternative format. The drafting attorney prepared a redraft incorporating the requested revisions into 2005 Assembly Bill 1142 and, after reviewing the draft, Representative Seidel requested that the draft be jacketed for introduction. LRB-0169 was introduced as Assembly Bill 469 on July 26, 2007. Representative Seidel also requested that a companion bill for the senate be drafted for Senator Carol Roessler. The request for the senate companion bill was entered as LRB-2889. LRB-2889 was introduced as Senate Bill 238 on July 18, 2007, and passage of Senate Bill

Figure 3: Fiscal Estimate for 2007 Assembly Bill 469.

Wisconsin Department of Administration  
Division of Executive Budget and Finance

**Fiscal Estimate Worksheet - 2007 Session**  
Detailed Estimate of Annual Fiscal Effect

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number <b>07-0169/2</b>	Introduction Number <b>AB-0469</b>																																																																																
<b>Description</b> Accessible instructional materials for students with disabilities enrolled in the University of Wisconsin System or the technical college system																																																																																	
<b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b> Initial Startup Costs (storage area network, server, scanner) are estimated to total \$134,000. While these are initial costs, there will be a need for replacement over time as technology changes or to follow a normal replacement schedule. At present, these cannot be anticipated.																																																																																	
<b>II. Annualized Costs:</b>																																																																																	
<table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">Annualized Fiscal Impact on funds from:</th> </tr> <tr> <th>Increased Costs</th> <th>Decreased Costs</th> </tr> </thead> <tbody> <tr> <td colspan="3"><b>A. State Costs by Category</b></td> </tr> <tr> <td>State Operations - Salaries and Fringes</td> <td>\$180,000</td> <td>\$</td> </tr> <tr> <td>(FTE Position Changes)</td> <td>(2.5 FTE)</td> <td></td> </tr> <tr> <td>State Operations - Other Costs</td> <td>30,000</td> <td></td> </tr> <tr> <td>Local Assistance</td> <td></td> <td></td> </tr> <tr> <td>Aids to Individuals or Organizations</td> <td></td> <td></td> </tr> <tr> <td><b>TOTAL State Costs by Category</b></td> <td><b>\$210,000</b></td> <td><b>\$</b></td> </tr> <tr> <td colspan="3"><b>B. State Costs by Source of Funds</b></td> </tr> <tr> <td>GPR</td> <td>210,000</td> <td></td> </tr> <tr> <td>FED</td> <td></td> <td></td> </tr> <tr> <td>PRO/PRS</td> <td></td> <td></td> </tr> <tr> <td>SEG/SEG-S</td> <td></td> <td></td> </tr> <tr> <td colspan="3"><b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b></td> </tr> <tr> <td></td> <td>Increased Rev</td> <td>Decreased Rev</td> </tr> <tr> <td>GPR Taxes</td> <td>\$</td> <td>\$</td> </tr> <tr> <td>GPR Earned</td> <td></td> <td></td> </tr> <tr> <td>FED</td> <td></td> <td></td> </tr> <tr> <td>PRO/PRS</td> <td></td> <td></td> </tr> <tr> <td>SEG/SEG-S</td> <td></td> <td></td> </tr> <tr> <td><b>TOTAL State Revenues</b></td> <td><b>\$</b></td> <td><b>\$</b></td> </tr> <tr> <td colspan="3"><b>NET ANNUALIZED FISCAL IMPACT</b></td> </tr> <tr> <td></td> <td>State</td> <td>Local</td> </tr> <tr> <td>NET CHANGE IN COSTS</td> <td>\$210,000</td> <td>\$</td> </tr> <tr> <td>NET CHANGE IN REVENUE</td> <td>\$</td> <td>\$</td> </tr> <tr> <td colspan="3"> <b>Agency/Prepared By</b> UWS/ Leslie Perelman (608) 262-5850  <b>Authorized Signature</b> Freda Harris (608) 263-5679  <b>Date</b> 5/21/2007       </td> </tr> </tbody></table>			Annualized Fiscal Impact on funds from:		Increased Costs	Decreased Costs	<b>A. State Costs by Category</b>			State Operations - Salaries and Fringes	\$180,000	\$	(FTE Position Changes)	(2.5 FTE)		State Operations - Other Costs	30,000		Local Assistance			Aids to Individuals or Organizations			<b>TOTAL State Costs by Category</b>	<b>\$210,000</b>	<b>\$</b>	<b>B. State Costs by Source of Funds</b>			GPR	210,000		FED			PRO/PRS			SEG/SEG-S			<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>				Increased Rev	Decreased Rev	GPR Taxes	\$	\$	GPR Earned			FED			PRO/PRS			SEG/SEG-S			<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$</b>	<b>NET ANNUALIZED FISCAL IMPACT</b>				State	Local	NET CHANGE IN COSTS	\$210,000	\$	NET CHANGE IN REVENUE	\$	\$	<b>Agency/Prepared By</b> UWS/ Leslie Perelman (608) 262-5850 <b>Authorized Signature</b> Freda Harris (608) 263-5679 <b>Date</b> 5/21/2007		
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GPR	210,000																																																																																
FED																																																																																	
PRO/PRS																																																																																	
SEG/SEG-S																																																																																	
<b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>																																																																																	
	Increased Rev	Decreased Rev																																																																															
GPR Taxes	\$	\$																																																																															
GPR Earned																																																																																	
FED																																																																																	
PRO/PRS																																																																																	
SEG/SEG-S																																																																																	
<b>TOTAL State Revenues</b>	<b>\$</b>	<b>\$</b>																																																																															
<b>NET ANNUALIZED FISCAL IMPACT</b>																																																																																	
	State	Local																																																																															
NET CHANGE IN COSTS	\$210,000	\$																																																																															
NET CHANGE IN REVENUE	\$	\$																																																																															
<b>Agency/Prepared By</b> UWS/ Leslie Perelman (608) 262-5850 <b>Authorized Signature</b> Freda Harris (608) 263-5679 <b>Date</b> 5/21/2007																																																																																	

Wisconsin Department of Administration  
Division of Executive Budget and Finance

**Fiscal Estimate - 2009 Session**

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number <b>09-2990/2</b>	Introduction Number <b>AB-0882</b>
<b>Description</b> Accessible instructional materials for students with disabilities enrolled in the University of Wisconsin System or the Technical College System	
<b>Fiscal Effect</b>	
<b>State:</b> <input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	
<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Costs	
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
<b>Affected Ch. 20 Appropriations</b>	
<b>Agency/Prepared By</b> UWS/ Paige Rusch (608) 263-3307	<b>Authorized Signature</b> Freda Harris (608) 262-2734
<b>Date</b> 3/25/2010	

Figure 4: Fiscal Estimate for LRB-09-2990

238 was recommended by the Committee on Agriculture and Higher Education on January 11, 2008. Assembly Bill 469 and Senate Bill 238, however, both failed to pass during the 2007 session.

In June 2009, Representative Seidel requested the LRB to redraft 2007 Assembly Bill 469, without change, for reintroduction in the 2009 Session and to prepare a senate companion bill for Senator Robert Wirsch. Those drafting requests were entered as LRB-2990 and LRB-2991. Later in the session Representative Seidel, citing budgetary concerns, requested a redraft to remove the language requiring the establishment of the state repository and Senator Wirsch requested the same change for the senate companion bill. A comparison of the Fiscal Estimates for 2007 Assembly Bill 469 (Figure 3) and Fiscal Estimate for LRB 09-2990 (Figure 4) indicates that \$134,000 in initial startup costs and \$210,000 in annual ongoing costs were eliminated as a result of deleting the state repository requirement.

On March 23, 2010, the redrafted version of LRB-2990 was introduced as Assembly Bill 882 and the redrafted version of LRB-2991 was introduced as Senate Bill 638. Shortly thereafter, Senator Wirsch requested the LRB to draft an amendment to the senate bill (Figure 5) exempting from the requirements of the bill a publisher that is a member of a nationwide network that facilitates the delivery of alternative instructional materials to students with disabilities. The amendment was drafted as LRBa1999, introduced as Senate Amendment 1 to



**LRBa1999**  
04/06/2010 07:40:38 AM  
Page 1

**2009 DRAFTING REQUEST**

**Senate Amendment (SA-SB638)**

Received: <b>04/03/2010</b>	Received By: <b>gmalaisé</b>
Wanted: <b>As time permits</b>	Companion to LRB:
For: <b>Robert Wirth (608) 267-8979</b>	By/Representing: <b>Mike Tierney</b>
May Contact:	Drafter: <b>gmalaisé</b>
Subject: <b>Higher Education - miscellaneous Higher Education - tech. college Higher Education - UW System</b>	Addl. Drafters:
	Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Wirth@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Provision of alternative instructional material to students with disabilities; exception for publishers that are members of a network that facilitates delivery of those materials



**SENATE AMENDMENT 1,  
TO 2009 SENATE BILL 638**

April 7, 2010 – Offered by Senator WIRCH.

At the locations indicated, amend the bill as follows:

**1.** Page 4, line 20: after “material,” insert “Publisher” does not include a publisher or manufacturer of instructional material that is a member of a nationwide exchange network that facilitates and supports the delivery of instructional material in alternative format to students with disabilities, if that material is delivered to those students through that network within 7 working days after a request for that material is made.”.

(END)

Figure 6: Drafting request.

**LRB-2819**  
09/19/2011 02:01:29 PM  
Page 1

**2011 DRAFTING REQUEST**

**Bill**

Received: 09/06/2011  
Wanted: 09/08/2011  
For: Donna Seidel (608) 266-0654  
May Contact:  
Subject: **Discrimination**  
**Higher Education - miscellaneous**  
**Higher Education - tech. college**  
**Higher Education - UW System**

Received By: gmalaise  
Companion to LRB:  
By/Representing: Natalie Verette  
Drafter: gmalaise  
Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Rep.Seidel@legis.wisconsin.gov  
Carbon copy (CC:) to:  
**Pre Topic:**  
No specific pre topic given  
**Topic:**  
Instructional materials in alternative format for postsecondary students with disabilities  
**Instructions:**  
See attached--redraft 2009 AB 882

Senate Bill 638, and recommended for adoption by the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection on April 7, 2010. On that date, that committee also recommended passage of Senate Bill 638, as amended. Assembly Bill 882 and Senate Bill 638, however, both failed to pass during the 2009 session.

In September 2011, Representative Seidel requested the LRB to redraft 2009 Assembly Bill 882, without change, for reintroduction in the 2011 session. On receipt of the drafting request, the drafting attorney reminded the representative of the amendment drafted during the prior session and inquired whether she wanted the amendment included in the redraft (*Figure 6*). Representative Seidel replied that she did want the amendment included, so the drafting attorney redrafted 2009 Assembly Bill 882, incorporating the effects of Senate Amendment 1 to 2009 Senate Bill 638. It was introduced as Assembly Bill 322 on October 12, 2011.

In January 2012, Representative Joseph Knilans requested the LRB to draft a substitute amendment to Assembly Bill 322 (*Figure 7*) based on a version of that bill that was created by UW and TCS personnel, which was in turn based on a draft created by the Association of American Publishers (AAP). In a prefatory note to its version (*Figure 8*), the AAP stated that its

**Malaise, Gordon**

**From:** Verette, Natalie  
**Sent:** Wednesday, September 07, 2011 9:44 AM  
**To:** Malaise, Gordon  
**Subject:** RE: Redraft Request - Rep. Seidel

Thank you for reminding me. Yes, please included the amendment language in the redraft.

**From:** Malaise, Gordon  
**Sent:** Tuesday, September 06, 2011 11:45 AM  
**To:** Verette, Natalie  
**Subject:** RE: Redraft Request - Rep. Seidel

Natalie:

Last session I drafted 09a2236, which exempted publishers that are members of a network that provides accessible instructional material. Do you want to include a2236 in the redraft?

Gordon

**From:** Verette, Natalie  
**Sent:** Friday, September 02, 2011 3:23 PM  
**To:** Malaise, Gordon  
**Subject:** Redraft Request - Rep. Seidel

Hello Gordon,

Rep. Seidel would like to have 2009 AB 882 redrafted to introduce this session. The bill requires publishers to give electronic versions of instructional materials upon request to the higher education institutions.

You have drafted this bill for us the last three sessions. Previously the bill established a state repository to coordinate requests. Last session we removed that provision to avoid associated costs. The request we are making this session will also exclude the repository language. So this will be an exact redraft of the 2009 bill.

We are hoping to circulate for cosponsorship in conjunction with the Council on the Blind's Legislative Day on September 14th. If it is possible to get the draft in time it would be much appreciated.

Please let me know if you have any questions.

Thank you,  
Natalie

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Natalie Verette  
Legislative Assistant  
Office of State Representative Donna Seidel  
Assistant Democratic Leader  
85th Assembly District  
State Capitol, 119 North

1

Figure 7: 2011 Drafting request.

**LRBs0293**  
 02/14/2012 03:36:42 PM  
 Page 1

**2011 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB322)**

Received: 01/17/2012	Received By: gmalaise
Wanted: Today	Companion to LRB:
For: Joseph Knilians (608) 266-7503	By/Representing: BJ Dernbach
May Contact:	Drafter: gmalaise
Subject: Higher Education - miscellaneous	Addl. Drafters:
	Extra Copies: Rep. Seidel

Submit via email: YES

Requester's email: Rep.Knilians@legis.wi.gov

Carbon copy (CC:) to: Rep.Seidel@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Accessible instructional materials for higher education students

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**Instructions:**

See attached--version created by UW and Tech Colleges, which was based on publishers' version

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proposed revisions “are offered ... in an effort to reach a reasonable and practical compromise between the rights of publishers and the needs of Wisconsin students.” Those revisions included: deleting the language subjecting publishers to the public accommodations law, prohibiting an institution of higher education from requesting instructional material in alternative format if material in the format needed by the student is commercially available, specifying the various actions a publisher may take to fulfill a request for instructional material in electronic or alternative format, and placing certain restrictions on the use of instructional material received from a publisher.

Figure 8: Early agency draft.

**2011 BILL**

**AN ACT to create 106.52 (3) (a) 6. and 106.57 of**

**The statutes; relating to accessible instructional materials for**

**students with disabilities enrolled in the University of Wisconsin**

**System or the Technical College System.**

[Analysis by Legislative Reference Bureau to be conformed to text]

[Note: The revisions proposed here are offered by the Association of American Publishers (AAP) in an effort to reach a reasonable and practical compromise between the rights of publishers and the needs of Wisconsin students. However, the AAP does not have authority to act as agent for any particular publisher, and nothing herein is intended or should be construed as a waiver of any particular publisher's rights, or as a waiver of any particular publisher's defenses to any action brought to enforce the terms of this legislation.]

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 3. 106.57 of the statutes is created to**

**read:**

**106.57 Postsecondary education; accessible instructional**

**material for students with disabilities. (1) DEFINITIONS. In this**

**section:**

(a) “Alternative format” means Braille, large print texts, audio recordings

created with the use of text-to-speech technology, electronic formats for use with

assistive technology such as screen reader devices, or digital talking books,

as required by a ~~particular~~ ~~particular~~ student with a disability in order to

make those materials accessible to the student.

The drafting attorney prepared a draft of a substitute amendment that incorporated the AAP’s revisions, and the representative shared the draft with the advocates from the UW System and TCS and with representatives of the AAP. After review, the AAP requested a few final revisions and the advocates for the bill indicated that they were comfortable with those revisions. In submitting the AAP’s final revisions, the AAP’s attorney, Mr. William Strong of the firm Kotin, Crabtree, and Strong, in Boston, Massachusetts, expressed his appreciation for the effort that went into preparing the draft of the substitute amendment and graciously acknowledged that the draft pre-

Figure 9: LRB Correspondence.

**Malaise, Gordon**

**From:** Verette, Natalie  
**Sent:** Wednesday, February 08, 2012 12:18 PM  
**To:** Malaise, Gordon  
**Cc:** Schmidt, Dan  
**Subject:** FW: AB 322  
**Attachments:** Wisc AB 322 - Legislative Staff Revision with WSS Edits.docx; First Amendment analysis of revised bill.docx

Hi Gordon,

The advocates are comfortable with the most recent revisions from the publishers (attached). Could you please draft this as a P2 so we can get final sign off from both sides before introducing it as Sub?

Please let me know if you have any questions. Thanks for all of your help.

Natalie

**From:** William Strong [mailto:WStrong@kcslegal.com]  
**Sent:** Friday, January 27, 2012 4:37 PM  
**To:** Verette, Natalie  
**Cc:** Bruce Hildebrand; Ed McCoyd  
**Subject:** AB 322

Hi Natalie, I'm attaching a markup, as well as a First Amendment analysis, of the revised bill you sent us. Would you mind circulating to Rep. Knutans and everyone else that should see it?

I want everyone at your end to know, by the way, that we appreciate the effort that went into preparing your revision. I will be the first to admit that it actually is better organized than the draft we sent you.

The edits I have made here include both substantive edits and, in a few cases, edits for clarity. The substantive ones come after consultation with numerous people on our end, and represent a very careful consideration of what you proposed. In some cases they will be self-explanatory, but where I thought it would be necessary or helpful I have inserted "comments."

We look forward to hearing from you in due course.

Have a good weekend.

Bill Strong

Applicable U.S. Treasury Regulations require that we inform you that any Federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

This is a private message. If it is not intended for you, please do not read, copy, or use it and do not disclose it to others. Please notify us of the delivery error by replying to this message and then delete it from your system. Thank you.

2/8/2012

pared by the LRB attorney was actually better organized than the draft prepared by the AAP (Figure 9).

The substitute amendment was introduced on October 12, 2011, adopted by the assembly on March 6, 2012, concurred in by the senate on March 13, 2012, signed by the governor as 2011 Wisconsin Act 124 on March 19, 2012, published on April 2, 2012, and went into effect on April 3, 2012.

The drafting history of 2011 Wisconsin Act 124 illustrates the process by which an idea is refined into a finished piece of legislation and the roles played by the various participants in that process. The act originated with a letter from a constituent bringing a problem to the attention of the legislature and proposing a solution to that problem based on the laws of other states. The act went through numerous revisions to address various technical concerns raised by the UW System and TCS personnel who would be administering the act, to address the budgetary concerns of the legislature, and finally, to reach a compromise that would address the business concerns of the publishing industry, yet still meet the needs of Wisconsin students with disabilities. To assist the legislature

in achieving that outcome, the drafter needed to apply his knowledge of drafting and of substantive law to the problem; carefully study the laws of the other states on which the legislation was based and adapt those laws to the style and structure of the Wisconsin statutes; and acquire an awareness of the technical, legal, and business issues involved in providing accessible instructional materials to students with disabilities. Through the drafting process, the legislature, with the input of interested stakeholders and the assistance of the drafting

Page 1 of 1

**Malaise, Gordon**

**From:** Verette, Natalie  
**Sent:** Tuesday, February 14, 2012 2:25 PM  
**To:** Malaise, Gordon  
**Cc:** McGuire, Paula; Dembach, BJ  
**Subject:** FW: Draft review: LRB 11s0293/P2 Topic: Accessible instructional materials for higher education students  
**Attachments:** LRBs0293\_P2.pdf

Hi Gordon,

We have agreement from both sides on the substitute amendment. Could you please have the amendment formally prepared for the Assembly & the Senate.

attorney and other legislative staff, crafted a practical and workable solution to the problem raised by the constituent.

### **Bill Introduction and Committee Referral**

When the legislator decides the proposal is ready for introduction, he or she signs a submittal form and returns it to the LRB for preparation of a bill jacket. The bureau enters the drafting number and title of the proposal on the jacket and indicates whether the proposal requires a fiscal estimate or needs to be referred to the Joint Survey Committee on Retirement Systems or the Joint Survey Committee on Tax Exemptions.

Prior to deposit with the chief clerk, the primary author may solicit members of the house of origin to sign onto the bill jacket as “coauthors” and members of the second house to sign as “cosponsors.” Their names are later printed on the face of the bill.

The bill jacket and its contents are submitted to the office of the chief clerk of the bill author’s legislative house. The clerk assigns the bill number and records the introduction for the house journal and bulletin. If the legislature is meeting, bills are read by relating clause and usually are referred to committee, although a bill occasionally is referred directly to the calendar for floor action. After the presiding officer refers the bill to a committee, the action is recorded in the journal under the journal entry: “Read first time and referred.” The legislature does not have to be on the floor when a bill is introduced. On days when the legislature does not meet, the chief clerk merely enters the introduction and referral of bills in the house journal, and the result is the same as reading the bill before the assembled members.

As soon as a bill is introduced in either house, the chief clerk notifies the LRB of the date of introduction, the legislators who have agreed to author or sponsor the bill, and the committee to which the proposal was referred, if any. The bill text is usually available on the online documents Web site soon thereafter.

## **V. COMMITTEE ACTION ON BILLS**

Committees perform a gatekeeping function for the legislature. Out of 1,641 regular and special session bills introduced in the 2013 session, 838 (or 51 percent) never reported passage by the committee to which they were originally referred.

The statutes require that certain bills be referred to joint standing committees. The executive budget bill is introduced by and referred to the Joint Committee on Finance. Any bill that appropriates money, provides for revenue, or relates to taxation must be referred to the joint finance committee at some point, but it may be referred to another standing committee first. Legislation that affects retirement and pension plans for public officers and employees is referred to the Joint Survey Committee on Retirement Systems, and neither house can consider a retirement bill until that joint survey committee submits a written report describing the bill’s purpose, probable costs, actuarial effect, and desirability as public policy. Similarly, any legislation that creates or affects a tax exemption is referred directly to the Joint Survey Committee on Tax Exemptions. Neither house may consider a tax exemption proposal until that joint survey committee issues a written report describing the proposal’s legality, desirability as public policy, and fiscal effect. Budget bills containing tax exemptions are referred simultaneously to the Joint Committee on Finance and the joint survey committee, and the joint survey committee must report within 60 days.



Parts of bills that were not considered in committee may later turn up as amendments to those that were. Many bills introduced early in a session become part of the budget bill, either as part of the Joint Committee on Finance's substitute amendment or through later amendments from the floor. During the second year of most sessions, the legislature considers some kind of fiscal adjustment bill, which often includes material from bills introduced earlier. The subjects that are merged into the budget bill or fiscal adjustment bill may affect broad policies and need not have a fiscal focus. For example, although introduced as a separate bill, a major revision of the drunk driving laws was incorporated in the 1981 budget act. The 2009 budget act contained provisions creating the legal status for a domestic partnership, which had been the subject of separate bills in the early 2000s.

### Public Hearings

Normally, a bill that is under serious consideration will be given a public hearing by the standing committee. Of 1,641 regular and special session bills introduced during the 2013 Legislature, 961 (59 percent) received a public hearing. Hearings are a tool legislators can use to gather information, determine what groups or interests support or oppose a bill, and find out what changes are needed to make the bill more palatable or more effective. However, neither house requires the committee chairperson to schedule a hearing on every bill referred to the committee. Under Assembly Rule 14: "Any proposal referred to a committee ... may at the discretion of the chairperson be scheduled for public hearing." Senate Rule 25 states: "A chairperson who determines to hold a hearing shall schedule the hearing as early as practicable."

In some cases, bills dealing with highly controversial issues are sent to committee and intentionally ignored. As an example, a constitutional amendment related to "personhood," establishing rights for the unborn, was introduced in both the 2011 and 2013 sessions, but did not receive a hearing in committee either time. Bills to make the first offense of operating while intoxicated (OWI) a crime rather than a civil violation were introduced in the 2009 through 2013 sessions, but did not receive a public hearing until 2013. The bill ultimately passed the assembly after heavy revisions but did not make it to a hearing in the senate committee.

Some bills in the 2013 session did pass without a hearing, but these were mainly bills to ratify state employee contracts already approved by the Office of State Employment Relations and the Joint Committee on Employment Relations. Some bills deal with urgent matters and are considered "fast track" bills.

There is a certain amount of duplication and overlap in the bills introduced in a single session, and sometimes only the stronger proposals are granted committee hearings. In the 2013 session, there were more than 20 bills that would have affected unemployment insurance benefits. Many times, identical bills, called "companion bills," are introduced in the legislature for procedural reasons. It is a common practice to introduce a bill in one house and have the cosponsors from the other house simultaneously introduce an identical bill in their chamber. It is not possible to enact legislation using parallel bills in the Wisconsin Legislature. One specific bill must be approved by both houses. However, introducing companion bills can be sound strategy. It allows flexibility if a proposal makes better progress

in one house than in the other. Committees may decide to schedule hearings only for the companion bill that has better prospects for passage.

Bills introduced late in the session are less likely to receive hearings, but many of these represent revised versions or combinations of proposals already reviewed in committee. With the backlog of bills facing the legislature in the final floor period, committees need to be selective if the bills they report are to have any chance for consideration. Because committees are not allowed to hold hearings when their house is meeting on the floor, there is less chance to hear bills in the last days of a session. For example, in the 2013 Legislature, only 6 of the 93 assembly bills introduced from March 3 to April 3, 2014 (the end of the last floor period) had hearings. In the senate, 12 out of 46 bills introduced in the same period had hearings.

Politics also plays a role in whether a bill receives a public hearing. A bill that has little special interest or general public support, and thus presumably a minimal chance of passage, may not be heard. Sponsors of a bill may reconsider promoting a proposal that at first seemed worthwhile but has been supplanted by another proposal, has become too unpopular, or now appears to be poor public policy. Bills introduced solely by members of the minority party are less likely to be considered. In some cases, the committee chairperson may be opposed to a bill, and there may not be enough backing to force the issue or to transfer the bill to another committee.

Legislative committee meetings, including those in which bill hearings are conducted, must comply with the Wisconsin open meetings law. This law generally requires that notice be given at least 24 hours prior to the meeting of a governmental body. The hearing schedules of both standing and special committees are posted on the bulletin board of each house to provide proper notice. In addition, the clerks of both houses are required by joint rule to prepare the *Weekly Schedule of Committee Activities*. This schedule, which is available at <http://committeeschedule.legis.wi.gov>, lists the time, date, and place of each hearing and designates each legislative proposal or proposed administrative rule scheduled for hearing by its number, author, and topic. Advance notices of future meetings may also be provided. Proposals may include bills, joint resolutions, resolutions, and segments of the budget bill. An index at the front of each weekly printed schedule lists the proposals and rules in numerical order. A hearing may also be held to consider policy issues or governmental matters that the committee wishes to investigate. Committee chairpersons frequently schedule bills on the same subject for the same public hearing.

Legislative committee meetings are open to the general public. Persons who wish to testify are given an opportunity to present a statement, but only committee members may ask questions of the various speakers or comment on the points they present. Those who merely want to inform the committee about some aspect of the bill without taking a stand on it may appear “for information only.” Parties who do not wish to speak may register their opinion of the bill by signing a hearing slip that states whether they favor or oppose the measure. Others may listen to the testimony without participating or identifying themselves in any way.

Public attendance at a hearing varies depending on the subject of the bill and its support or opposition. A hearing on special license plates may attract only a small number of participants. A hearing on an environmental regulation may attract a number of lobbyists for environmental organizations and affected businesses, along with legislative liaisons from

## Hearing record for 2009 Senate Bill 181.

Moved by Senator Darling, seconded by Senator Erpenbach that  
**Senate Substitute Amendment 1** be recommended for adoption.

- Andrea Skaltzky, Madison — WI Association of Health Plans
- Brenda Wood, Milwaukee — City of Milwaukee
- Jeremy Levin — Rural Wisconsin Health Cooperative
- Kathryn Stockwell, Salem

- Darcie Galowitch, Madison
- Dona Wininsky, Brookfield — American Lung Association
- Beverly Jambois, Middleton — Middleton Smoke Free

**Senate****Record of Committee Proceedings****Committee on Health, Health Insurance, Privacy, Property  
Tax Relief, and Revenue****Senate Bill 181**

Relating to: prohibiting smoking in indoor areas, in sports arenas, in public conveyances, and at certain outdoor locations and providing a penalty.

By Senators Risser, Ellis, Robson, Jauch, Miller, Darling and Cogg; cosponsored by Representatives Richards, A. Ott, Seidel, Zigmunt, Milroy, Benedict, Parisi, Berceau, Black, Roys, Soletski, Gottlieb, Clark, Bernard Schaber, Mursau, Toles, Hilgenberg, Cullen, Sinicki, Townsend, Pope-Roberts, Smith, Pasch, Hintz, Spanbauer and Montgomery.

May 04, 2009 Referred to Committee on Health, Health Insurance, Privacy,  
Property Tax Relief, and Revenue.

**May 5, 2009 PUBLIC HEARING HELD**

Present: (6) Senators Erpenbach, Carpenter, Robson, Lassa,  
Lazich and Darling.

Absent: (1) Senator Kanavas.

**Appearances For**

- Fred Risser — Senator
- Al Ott — Rep.
- Jon Richards — Rep.
- Karen Timberlake, Madison — Secretary, Department of Health Services
- Jari Johnston-Allen, Oconomowoc — American Cancer Society
- Sandy Bernir, North Fond du Lac — ACS Volunteer
- Amy Basken, Prairie du Sac — Mended Little Hearts; American Heart Association
- Trisha Pugal, Brookfield — WI Innkeepers Association
- Mike Miller, Madison — Dr., ASAM
- Jeff Melby, Portage
- Melva Stockwell, Salem
- Jill Martin, Marshfield — Breathe Free
- Dave Wille, Marshfield — Breathe Free
- Marilyn Townsend, Madison
- Sue Swan, Brookfield
- Keri Schneider, Ixonia

state regulatory agencies. Hearings on mining, abortion, and education issues have attracted hundreds of people.

Those wanting to testify usually include the bill's author and persons specifically affected by the proposal. Designated spokespersons from state agencies may appear for information only to give the committee facts about current program operations and possible effects of proposed changes. Other appearances might include local or federal government officials,

technical experts, labor union representatives, business owners, members of organizations interested in the topic, and individuals appearing on their own behalf.

Not all hearings are held in the State Capitol. Hearings on the state budget and education policy have been held in various parts of the state in an attempt to elicit a broader spectrum of opinion and include people who lack the time or resources to travel to Madison.

Committees are not required to keep verbatim records of testimony, although a few committees may informally tape-record their meetings. Committee records usually are little more than a formal listing of the persons who “appeared” (i.e., testified) or registered for or against a bill and those who appeared for information only. The records are available online at the legislative documents site by bill number or committee name. WisconsinEye also keeps an online video archive of committee hearings at [www.wiseye.org](http://www.wiseye.org).

The hearings for most bills last a few hours and rarely run more than a day. Some complicated or controversial bills may receive numerous hearings at several different locations. Executive budget bills may involve various hearings by separate committees over a period of many weeks.

The record for 2009 Senate Bill 181, the bill that created the statewide smoking ban, illustrates committee hearing records. Those who testified and registered in support of the bill included representatives from hospitals, individual doctors, members representing the American Lung Association and the American Cancer Society, authors of the bill, and various health care advocates. Opponents speaking and registering included representatives from the Tavern League of Wisconsin and owners of bowling alleys and cigar stores.

Hearings permit committee members to receive information, ask questions, and draw a balance of opinions. Testimony may point to weak points in a bill or an ambiguity in a definition. Sometimes testimony alerts legislators to unforeseen and unintended effects of the bill. Witnesses for various interests may indicate where compromises can be made.

Hearings do not replace lobbying efforts, constituent contacts with individual legislators, or discussion in party caucuses, but they do give individual citizens a chance to speak out on an issue about which they have strong feelings. They definitely may change the outcome of a proposal.

Moved by Senator Darling, seconded by Senator Erpenbach that  
**Senate Substitute Amendment 1** be recommended for adoption.

Ayes: (6) Senators Erpenbach, Robson, Lassa, Lazich,  
Kanavas and Darling.

Noes: (1) Senator Carpenter.

ADOPTION OF SENATE SUBSTITUTE AMENDMENT 1  
RECOMMENDED, Ayes 6, Noes 1

Moved by Senator Darling, seconded by Senator Erpenbach that  
**Senate Bill 181** be recommended for passage as amended.

Ayes: (5) Senators Erpenbach, Robson, Lassa, Kanavas  
and Darling.

Noes: (2) Senators Carpenter and Lazich.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 2

\_\_\_\_\_  
Kelly Johnson-Becker  
Committee Clerk

In 1983, the Wisconsin Supreme Court ruled in *State of Wisconsin v. Popanz*, 112 Wis. 2d 166, that the state’s compulsory school attendance law, which carried criminal sanctions, was unenforceable because there was no statutory definition of “private school,” so enforcement officers could not determine whether a child was attending a qualified private school in lieu of public school attendance. The Department of Public Instruction requested that the Assembly Committee on Primary and Secondary Education introduce a bill in the 1983

Legislature to create this definition. Less than a month after introduction, the committee held a hearing that over 2,000 persons attended to express their opposition to the original bill. In response, the Department of Public Instruction held extensive meetings with public and private school representatives to answer their concerns. The result was a substitute amendment that the committee recommended to the assembly for adoption.

When the bill reached the assembly floor there were still many objections. The most vocal of these came from advocates of home schools and certain religious groups who were concerned the state might try to regulate what they taught. These groups contacted their representatives and 21 amendments were offered on the floor.

After the assembly passed a much-amended version of the substitute amendment, the bill was given a second hearing when it reached the senate. Again as many as 2,000 persons appeared in opposition. On the senate side, these groups were able to get a version of the bill more to their liking, particularly as it limited supervision of home schools to a minimum. The senate version was concurred in by the assembly. While attendance at public hearings, by itself, did not determine the outcome, it did give notice to legislators of other points of view. It did not replace informal lobbying and the constituents' direct contacts with legislators, whether in person, by phone, or by mail.

When legislation was introduced to raise the drinking age to 21, in the 1980s, the Wisconsin Tavern League and other concerned opponents turned out in large numbers for the hearings. In this case, the threat of losing federal highway dollars if Wisconsin failed to make the change eventually outweighed the objections of the bill's opponents, and the bill passed.

These 2 situations illustrate the different types of influence a large turnout at a hearing can have. In the school case, support for the bill was pragmatic and flexible. The state was basically concerned with creating a statutory definition of "school" that would permit enforcement of the compulsory attendance law. The particular details were negotiable. Opponents, while they would have preferred no bill, understood the enforcement problem and realized their best interests lay in keeping statutory changes to a minimum. Legislators could see that compromise was possible. The second bill relating to the drinking age did not have the same amount of maneuverability built into it. The question was very specific: to raise the age and preserve Wisconsin's share of highway funding or not. In this case, the legislators had a more clearcut decision before them.

### **Executive Sessions, Reporting a Bill**

Once the public hearing ends, the committee may continue its work in what is called an "executive session," or it may postpone the session to a later time. The committee chairperson decides when and if an executive session will be scheduled. The purpose of the session is to allow discussion and decisions by the committee members themselves. In Wisconsin, an executive session is open to the public but no testimony is taken.

For a committee to take action in executive session a quorum must be present. Section 13.45 (5), Wisconsin Statutes, specifies that "...a majority of the members appointed to a committee shall constitute a quorum to do business and a majority of such quorum may act in any matter within the jurisdiction of the committee." The *Assembly Manual on Committee Procedures and Powers* instructs committee chairpersons to call hearings to order if a quorum



is present. If a quorum is not present after 10 minutes, the hearing proceeds and the roll is left open in case absent members arrive. A quorum is, however, required for a committee vote.

The committee vote on a bill is by roll call, and any absent members are named. The committee may take a variety of actions on a bill in an executive session. It may recommend the bill for passage as introduced, or it may recommend the bill in the form of a substitute amendment or as affected by simple amendments. A bill that receives a negative recommendation is almost never reported to the floor. If the result is a tie vote, the committee can report the bill without recommendation.

As discussed, standing committees in Wisconsin do not have to report a bill. The chairperson decides whether to schedule a vote and report a bill, and he or she may simply allow the bill to “die in committee” without any final action being taken. In addition to the 680 bills that did not receive a hearing in the 2013 session, there were 190 that had hearings but were not reported by the standing committee.

When a bill is reported by a committee, the chairperson submits a written report to the house identifying the committee, the bill by its number and relating clause, the vote on the bill, any amendments, and the committee’s recommendation. The report of the committee is printed in the journal of the house to which it reports. When the Assembly Committee on Colleges and Universities reported 2011 Assembly Bill 322 (Act 124), that report appeared in the Assembly Journal for March 2, 2012, under its bill number and relating clause along with the committee’s recommendation and the roll call vote.

If a Wisconsin legislative committee fails to report a bill, members of the house may withdraw the bill by motion or by petition. A successful bill withdrawal by petition is not a common occurrence in the modern legislature. However, bills occasionally have been withdrawn by motion on the floor, often with the consent of the committee chairperson.

Under Assembly Rule 15, no bill may be withdrawn until 21 calendar days after referral. Members may make a motion to withdraw only on the first day of any week on which a call of the roll is taken (usually a Tuesday). Once such a motion fails, any subsequent motion to withdraw requires a two-thirds majority. Petitions to withdraw, which are submitted to the chief clerk, require the signatures of a majority of the assembly membership. Any question of petition adequacy is decided by the speaker. Receipt of a proper petition is announced on the next day of legislative business and printed in the journal.

In the senate, Rule 41 states bills may be withdrawn at any time prior to passage except during the 7 days preceding any scheduled committee meeting or the 7 days following the date on which a committee meeting is held. A motion to withdraw a bill from committee places that bill in the Committee on Senate Organization, unless it is specifically referred to a different committee. A motion to withdraw from the organization committee places the bill on the calendar. If a motion to withdraw the bill from its assigned senate committee fails, any later motion to withdraw that particular bill requires a suspension of the rules, which must have a two-thirds majority.

Withdrawing a bill from a committee and transferring it to another does not guarantee its advancement. Nor does surviving the standing committee guarantee a bill will get to the floor. If it makes an appropriation, provides for revenue, or relates to taxation it must also be referred to the Joint Committee on Finance. Many bills die at this stage, especially when state

finances are tight. In the 2013 session, 57 bills referred to the Joint Committee on Finance died in that committee.

Bills reported by a standing committee or by the Joint Committee on Finance are sent to the Assembly Committee on Rules or the Committee on Senate Organization where they are scheduled for floor action.

The rules committee or organization committee decides the order of bills on the calendar for floor action. This sequence does not necessarily correspond to the order in which they were reported by the standing committees or received by the rules committee or organization committee. The rules committee or organization committee may recommend that a bill be made a “special order of business” and given priority over earlier bills. When large numbers of bills are being reported toward the end of a session only those given a high priority by the leadership will be scheduled for floor action. Those not scheduled die or, in procedural terms, “fail to pass.” Bills reported by the standing committees may die because their companion bills have already passed or their provisions have been incorporated into another bill, such as the budget bill.

### **Budget Hearings Before the Joint Committee on Finance**

Because of its size and its impact on public policy, the executive budget bill receives exceptional consideration. In Wisconsin, the budget bill may be introduced in either house. Immediately after introduction, the bill (which encompasses hundreds of issues in addition to fiscal provisions) is referred to the Joint Committee on Finance. That committee generally begins its hearings within a few weeks of introduction. Because committee hearings cannot be held when the legislature is on the floor, the legislature schedules a committee work period of about one month early in the biennium to allow the joint finance committee to hold hearings. In the 2011 Legislature, the hearings lasted from March 29 to April 13. In 2013, they spanned from March 19 to April 18.

Each state agency, regardless of size, is scheduled for a public hearing before the committee. The amount of time allotted to an agency depends on its size and the complexity of the programs it administers. The agency is given a chance to explain its needs or wants, the new programs it proposes, the ones it wishes to delete, and other policy issues. Committee members have a chance to question agency heads directly about their budget requests and the governor’s recommendations. Members of interest groups and the general public may also testify before the committee. The joint finance committee will hold public hearings on budget issues around the state, in addition to receiving testimony at the Capitol. As with standing committees, only committee members may ask questions of the persons who testify.

The joint finance committee is assisted in its work by the Legislative Fiscal Bureau, which briefs the committee on issues raised by the governor’s budget, possible alternative policies, and the costs involved.

To better handle the complexities of a budget bill, the Joint Committee on Finance often divides its members into informal discussion groups. This specialized approach allows the committee to engage in intensive investigation of the governor’s proposals. The joint finance cochairpersons determine the subjects or issues to be covered and appoint the members of each group. Subject assignments vary from session to session but typically include

education, local finance, environmental issues, social welfare, state operations, and state tax policy. Members of the joint finance committee are free to participate in discussion groups other than their own, and the cochairpersons may be part of any or all discussion groups. Discussion group recommendations, which are submitted to the committee in the form of written motions, form the basis for the committee's action on the budget. Individual members may also make recommendations to the committee.

The joint finance committee intersperses its executive sessions with public hearings. Most motions are presented and considered by the committee when a particular agency's budget is before the committee in executive session. Once any proposed change to the budget is approved by the committee, the Legislative Fiscal Bureau submits it to the LRB for drafting. The approved changes are combined in the joint committee's substitute amendment to the governor's original version of the bill.

When the Joint Committee on Finance has completed its work on the budget, it reports its recommendations in the same manner and form as any other standing committee, and the budget bill is ready for action on the floor.

## VI. FLOOR ACTION

Floor action is the most familiar part of the legislative process. The classic debates in the U.S. Congress, such as the Webster-Clay-Calhoun debate over the issues of slavery and secession in 1850, are still depicted in school history books. A more recent example of notable debate was the 2013 Congressional discussion of the Affordable Care Act.

Unlike Congress, the Wisconsin Legislature does not keep a verbatim record of its floor debate and it does not record who spoke to the chamber. The daily journals of the senate and assembly are procedural in nature, reflecting legislative action and other business conducted while the legislature is meeting. The nonprofit television network WisconsinEye records all floor sessions and makes its archive available to the public on its Web site. Selective descriptions of floor debate on prominent issues are available in daily newspapers and radio and television reports, but many noncontroversial bills pass without any debate.

House journals do record all roll call votes by the name of the legislator and the position taken, and individuals and organizations can use these votes to gauge the performance of their senators and representatives on issues of interest, such as environmental policies, health insurance, taxation, and business regulation. Often, however, the vote on a bill or an amendment is merely a group voice vote of "aye" or "no."

### Parliamentary Procedure

In order to keep floor action orderly, legislatures operate under rules known as "parliamentary procedure," which prescribe the way in which business will be conducted in the legislature. They determine orders of business, rules of debate, precedence of motions, and methods for settling disputes.

Many people are familiar with parliamentary procedure in the form of "Robert's Rules of Order," used by private groups and local governments to organize their discussions and actions in a formal manner. However, there are recognized resources specifically designed to keep legislative procedures orderly. These include *Mason's Manual of Legislative Procedure*

and *Jefferson's Manual*, which was compiled by Thomas Jefferson when, as Vice President of the United States, he presided over the U.S. Senate.

As Jefferson noted, in quoting the English writer Hatsell, parliamentary rules allow the majority to rule while protecting the rights of legislative minorities:

...as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check and which the wantonness of power is but too often apt to suggest to large and successful majorities. (*Jefferson's Manual*, Section I)

The Wisconsin Constitution, much like the U.S. Constitution, empowers the legislature to operate under its own rules and select the form of parliamentary procedure it chooses. Each house has its own set of rules, the "Assembly Rules" and the "Senate Rules," which are published online and in pamphlet form at the beginning of each session. A third collection of rules is the "Joint Rules" that both houses agree to follow. Joint rules set standards in cases where bicameral uniformity is required, such as style and format of proposals, legislative publishing, clerical procedures, the session schedule, and conference committees.

### Opening the Daily Session

Each house of the legislature must have a quorum to conduct business, so the first order of business of a daily session routinely is a call of the roll. Senate and assembly rules both define a quorum as the majority of the elected membership of the house (17 in the senate and 50 in the assembly). While this general rule applies in most cases, the state constitution does specify that three-fifths of the elected members (20 senators or 60 assembly members) is a quorum for final approval of fiscal bills. Lacking a quorum, the members present may adjourn or may compel the attendance of absent members. During the 2011 session, the senate sergeant's office was sent to the homes of Democratic senators after they refused to convene for a vote relating to public employees' unions.

The first several orders of business on the daily calendar are housekeeping in nature: roll call, bill introductions, committee reports, and messages. A matter carried over from any previous day's calendar is taken up before starting on the business portion of the new day's calendar.

All business in either the senate or the assembly, including the attendance roll call, is usually conducted in a certain scheduled order set by the house rules. Bill introductions, for example, are the second order of business in the assembly and the third order of business in the senate.

Calendar scheduling was adopted by the senate in 1975 and the assembly in 1977. Prior to that time, the scheduling of business before the house was determined by the order in which committee reports were received. Currently, the Assembly Committee on Rules and the Committee on Senate Organization schedule bills for action under the appropriate order of business.

## Special Order of Business

Both houses have procedures to alter their calendars, if necessary, by creating a special order of business. In the assembly, once a proposal has been placed on the calendar or referred to or introduced by the rules committee, that committee may offer a resolution making the proposal a special order of business. These resolutions allow the assembly to consider legislative proposals in an expedited manner without the requirement of separate readings on different days, and allow for immediate reconsideration and messaging of the proposals to the senate. The resolution to make a proposal a special order of business is “privileged,” that is, it may be offered under any order of business. Typically, the rules committee special order resolution sets a specific day and time at which the bill will be considered. Thus, Assembly Resolution 5 established that 2013 Assembly Bill 1, relating to the regulation of iron mining, or its companion bill, 2013 Senate Bill 1, if it was in the assembly, was scheduled for floor action at 10:01 a.m., March 5, 2013. A resolution may contain time limits for debate, or time limits may be agreed to informally by leadership. If limits are imposed, party leaders or their designees serve as floor managers and allocate debate time among the members of the party.

Under Senate Rule 17, two-thirds of the members, as well as the organization committee, may make a bill or any other matter a special order of business for a specific date and time. Senate Rule 76 allows the organization committee or the majority and minority leaders jointly to “designate time limits and schedules for debate.” Motions to set time limits are not subject to debate, but members may reject or modify the time limits that are proposed.

## Bill Readings

The major portion of the legislature’s business revolves around reading and acting upon the many bills proposed each session. Each bill that passes a house must be given 3 readings. Because electronic or printed copies of bills are available to all members, it is rare to have the complete text of a bill read on the floor. It may once have been a common practice in the Wisconsin Legislature to read the entire bill, but as far back as 1860 bills “of a general nature” were printed in sufficient copies to be available for legislators. The 1897 Legislature stated by rule that bills were to be read by title only.

With few exceptions, copies of proposals must be made available to members before floor consideration. In the assembly, bills are provided in electronic format only, a practice referred to commonly as the “paperless legislature.” When the presiding officer orders the chief clerk to read the bill, the clerk merely reads the bill number and the bill’s relating clause. However, if copies of amendments, privileged resolutions, fiscal estimates, and required reports of certain joint committees have not been distributed to the members, they will be read at length on the floor.

A bill is introduced and given its first reading before it is referred to a committee. After the bill is reported out of committee and scheduled for floor action, it must be given a second reading, at which time amendments may be offered and considered. The bill itself is considered for passage after the third reading. During a bill’s second and third readings, a variety of motions and other actions may take place that seriously affect its chances of passage. The rules of each house spell out which actions are appropriate during bill debate. Frequently



both proponents and opponents of a bill can make expert use of the rules to either speed or impede the progress of the bill.

## **Second Reading**

During the second reading, debate is supposed to be limited to amendments. Debate on the bill as a whole takes place at the third reading, though explaining a major amendment or substitute amendment on the second reading may, in practice, include detailing the contents of the whole bill. As Assembly Rule 46 describes it, “the purpose of the 2nd reading stage is to consider amendments and perfect the form and content of proposals.” Amendments recommended in the standing committee’s report are taken up, debated, and adopted or not adopted. Members also may offer their own simple or substitute amendments.

Adoption of an amendment requires approval of the majority of members present and constituting a quorum. Voting on amendments is usually by voice vote, but any member may request a roll call. When an amendment is controversial, a member may move its rejection. The negative question is put first and the question of adoption comes to a vote only if the question of rejection fails.

Although bills may be amended any number of times, each house has rules that specify the order in which amendments are considered. In the assembly, under Rule 55, the substitute amendment most recently introduced before the current debate is taken up first. In the senate, substitute amendments are taken up in numerical order unless the senate orders otherwise by majority vote (Rule 47). Any number of substitutes may be offered, but the number rarely exceeds 3. A rare example was January 2014 Special Session Assembly Bill 1, a bill to lower the income tax rate, in which 6 substitute amendments were proposed and all were laid on the table.

Simple amendments, whether to the original version of the bill or to a substitute amendment, are ordinarily taken up in numerical order. Amendments to simple amendments are allowed but amendments to the third degree (amendments to amendments to amendments) are not (Assembly Rule 52; Senate Rule 51). While considering a bill that has several amendments, members may move to consider certain amendments out of numerical order. This occurred during the debate in the 2011 session over the bill that would become Act 10, when over 120 amendments were introduced in the assembly.

## **Conduct of Debate**

Since the purpose of productive debate is to inform and persuade legislative colleagues, the rules of each house require courtesy and decorum. Formal procedures are designed to keep issues and personalities distinct. Legislators are referred to by their district numbers or geographic area, rather than by name. For example, the presiding officer might recognize “the lady from the 4th district,” “the gentleman from the 33rd,” “the senator from the 20th,” or “the representative from Wausau.” During the debate, the legislators’ references to their colleagues follow a similar pattern of respect, regardless of how individuals might feel about one another personally.

Although the rules may allow members a certain amount of latitude during debate, delaying tactics are usually controlled. Members must speak from their assigned places and may not speak more than twice on the same question, unless permission is given by the

entire body. The assembly specifically disallows reading from printed documents except for the proposal being debated, pending amendments to the proposal, or laws that directly relate to the proposal (Assembly Rule 59).

The rules empower the presiding officer to keep order during debate. They also restrict the number of motions that may interrupt someone who is speaking. A member who has the floor may speak without interruption unless questions arise that require immediate consideration. These include personal privilege, points of order and appeals therefrom, quorum calls, a parliamentary inquiry, yielding for a proper question, requesting a division of the question, and calling for a special order of business (Assembly Rule 57; Senate Rule 63).

## Motions

Certain motions outrank others or, in parliamentary language, they “take precedence over other motions.” In all, there are 4 types of motions. Ranked in descending order of precedence, they are: privileged, incidental, subsidiary, and main motions. “Privileged motions,” such as a motion to make a bill a special order of business or to suspend the rules, are the highest order. “Incidental motions,” which are appropriate while a proposal or question is under debate, include points of order (such as germaneness of an amendment or a request for a fiscal estimate), parliamentary inquiries, withdrawal of motions, and motions to reconsider. “Subsidiary motions” change, delay, or speed up the consideration of a proposal. They include motions to table, take from the table, postpone, or refer. Finally, “main motions” are those that affect the adoption of an amendment or passage of a bill.

Some motions may not be in order at a particular time in the debate, and the existence of agreed-upon rules of procedure does not eliminate disputes over whether a motion is in order. The rules must be interpreted and enforced by the presiding officer of each house. If a member raises a point of order about whether a procedure is proper, the presiding officer may take the point under advisement. Consideration of a bill or amendment is suspended at that point. The officer may consult the printed rules, *Jefferson’s Manual*, *Mason’s Manual of Legislative Procedure*, or earlier rulings for an answer. (The rulings made by the presiding officers are found in the senate and assembly journals.) If disagreement continues, the house itself may have to settle the question. If the member does not accept the chair’s ruling and appeals it to the full membership, the house then must decide by majority vote whether to uphold or overrule the presiding officer.

## Germaneness

The Wisconsin legislative process is unlike that of the U.S. Congress, where members frequently attach unrelated proposals, called “riders,” to bills they know the President will probably be forced to sign because there is no item veto. Wisconsin legislators are not free to amend a bill in any way they wish. Under the rules of each house, any simple or substitute amendment must be germane to the proposal at hand. In 2013, the presiding officer ruled that an amendment meant to structure collective bargaining units was not germane to Senate Bill 224, which made changes to the state civil service rules.

In the words of *Mason’s Manual of Legislative Procedure*: “to determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal” (sec.

402). Under Assembly Rule 54, the “assembly may not consider any assembly amendment or assembly substitute amendment that relates to a different subject or is intended to accomplish a different purpose than that of the proposal to which it relates...” Senate Rule 50 (1m) states: “A standing committee may not report any substitute amendment or amendment to a proposal originating in either house, and the senate may not consider any substitute amendment or amendment to a proposal, that is not germane to that proposal.”

A ruling on germaneness is not automatic; someone must raise the issue. Any member may challenge germaneness. The journal entry would indicate that a senator or representative “rises to a point of order.” When the point is raised, the presiding officer rules on whether the amendment is properly before the house. Amendments that may be ruled not germane are those that expand the scope of a bill, substantially change the subject matter, negate the effect of another amendment previously adopted, amend a statute or session law when the purpose of the bill is to repeal the law, or repeal a statute or law when the purpose of the proposal is to amend the law. Amendments will be considered germane if they accomplish the same purpose in a different way, limit the scope of a proposal, add appropriations to fulfill the original intent of a proposal, relate only to particularized details, or change the effective date of a repeal.

Both houses class amendments that are identical to amendments already rejected as not germane. This prevents members from offering the same amendment repeatedly. However, the second house may consider an amendment identical to one that failed in the first house.

A decision as to whether an amendment is germane is much more difficult in the case of multiple issue bills or executive budget bills. The relating clause to a multiple issue bill may go on for several pages. On the other hand, budget bills have a simplified title set by rule. For example, the relating clause on 2013 Assembly Bill 40 (the 2013-15 budget bill) read as follows: “An act relating to state finances and appropriations, constituting the executive budget act of the 2013 legislature.” Raising the question of the germaneness of an amendment to a budget bill is rare.

### **Division of the Question**

If a simple amendment contains more than one issue or its text can be divided into multiple parts, a member may request a division of the question (Assembly Rule 80; Senate Rule 70). (This request is out of order for whole bills and substitute amendments.) If the presiding officer grants the request, then each part is treated as a separate amendment. In January 2001, the chair granted a request to divide the question on Assembly Amendment 3 to Assembly Bill 49, a bill related to election regulations. The division separated the amendment’s language related to voting by felons from language about campaign finance regulation. The assembly opted to adopt the felon language while the chair ruled the campaign finance language not germane. A division of the question is also useful in considering budget bill amendments and the governor’s partial vetoes.

### **Tactical Motions**

At various times during debate, there are a number of motions that can be used to delay or speed up consideration of a bill or its amendments. These motions are in order whether the bill is in the amendable stage (second reading) or up for passage (third reading). Delaying

motions include those to adjourn, recess, table, postpone, refer to a committee, or issue a call of the house. Those that speed up consideration include suspension of the rules, withdrawing from a standing committee, or setting a special order of business. Some motions are debatable and some are not, depending on the rules of each house.

Motions to suspend the rules are often used to speed up consideration on bills deemed important. Assembly action on 2013 Senate Bill 208 illustrates this point. The Assembly Committee on Rules scheduled the bill for November 12 under “second reading and amendment of senate proposals” (the 12th order of business). During an earlier order of business a representative “asked unanimous consent that the rules be suspended and that Senate Bill 208 be withdrawn from today’s calendar and taken up at this time.” The presiding officer granted the request and the assembly immediately took up the bill. After amending the bill, motions to suspend the rules to go immediately to a third reading and again to suspend the rules to message the bill immediately to the senate were both carried. If there had been any objection, a two-thirds vote would have been required to suspend the rules. Failure of the motion to suspend the rules would have kept the bill in its appropriate order of business.

A motion to recess may be tactical. During debates on difficult or controversial bills, party leaders may request a recess to give them time to meet in party caucus. The purpose of these caucus meetings may be to hammer out a common party position on a bill, to plan floor strategy to pass or defeat the bill, or to decide what additional amendments should be offered or adopted.

Motions to table dispose of a matter temporarily. The reasons for tabling a bill or an amendment may vary from the need to take up another matter that has a higher priority to the desire to delay consideration and ultimately stop passage of a measure. In practice, tabling an amendment is one way to dispose of it without the severity of a formal vote to reject. In both the senate and the assembly, motions to table cannot be amended. The assembly allows debate on the motion for a maximum of 10 minutes, but the senate does not permit any debate. In the senate, approval of a motion to lay on the table returns the matter to the organization committee.

In the U.S. House of Representatives and a few states, a motion to lay on the table is used only to make a final unfavorable disposition of a bill. Tabling a bill in the Wisconsin Legislature seldom ends its consideration. In the 2013 Legislature, a motion to table was the last action taken on 63 bills, 59 in the assembly and just 4 in the senate. Unless the Assembly Committee on Rules refers a tabled matter to an appropriate calendar, the assembly may take it from the table at any time. A successful motion to remove from the table in the senate withdraws it from the organization committee and places it on the calendar.

Rereferring a bill to a standing committee after it has reached the floor may serve to defeat the bill without bringing it to a final vote. The motion is seldom successful because standing committees usually report only those bills they feel stand a reasonable chance of passage. Thus, the house is not likely to discount the bill by returning it to committee.

Section 13.093, Wisconsin Statutes, requires referral to the Joint Committee on Finance of all bills that appropriate money, provide for revenue, or relate to taxation. According to Section 16.47 (2) of the statutes, the main concern is for bills having a fiscal impact of \$10,000 for one year or \$100,000 or more for the biennium. Bills having negligible fiscal impact are sometimes “dipped” through the joint committee, that is, the house’s cochairperson of the

Joint Committee on Finance or the majority leader asks unanimous consent to have a bill referred to that committee and then immediately requests unanimous consent to withdraw the bill from the joint committee so that the bill never is really considered by the committee.

In order to transact business, a legislative body must be able to require attendance of its members throughout its meeting. The motion to compel attendance is a “call of the house.” This is a privileged motion that may be issued either in the absence of a quorum or when there is one. The motion must be supported by at least 5 members in the senate and seconded by 15 representatives in the assembly. When there is a call, the presiding officer orders the sergeant at arms to close the chamber doors and to then locate any absent members. A call ends either with a successful motion to adjourn or a motion to raise the call. A call may be used as a delaying tactic or as a means of getting supporters or opponents of a measure to attend. Repeated calls of the house are considered to be dilatory (stalling tactics) and usually can be ruled out of order (Assembly Rule 69; Senate Rule 82).

Either by precedent or rule, successive motions designed to delay consideration of a measure are out of order. Assembly Rule 69 does not allow 2 consecutive identical motions unless “significant business has intervened between the motions.” For example, successive motions to adjourn are considered dilatory and may be declared out of order. Once motions to postpone, postpone indefinitely, reject, nonconcur in, or refer a bill to a specific standing or special committee have failed, they are not allowed again on the same day and at the same stage in the consideration (Assembly Rule 72; various senate rules).

Any member has the right to move to “put the question” or “move the previous question,” but these motions have not been used in recent years. Either of the motions aims at ending the debate and bringing a measure to a vote, and if the majority of members approve, the house proceeds to vote on the question or measure.

## **Roll Call Votes**

Roll call votes are taken when required by the state constitution, by law, by legislative rule or when deemed desirable by the presiding officer or requested by member with the support of a requisite number of seconds to the motion. Those seconding a roll call motion do so by rising at their assigned seats.

In the assembly, the rules allow a representative who will be absent when a vote is taken to “pair” with another representative on the opposite side of the issue. A “pair” records the position of the 2 members on an issue, but it is not counted among the votes cast. The senate does not allow pairing. An absent member may be allowed, however, to record a position on the roll call vote as long as that position does not change the outcome of the vote.

In 1917, the Wisconsin Assembly became the first house of any state legislature to install a voting machine. When ordering a roll call, the speaker directs the chief clerk to “open the roll.” Before ordering the clerk to “close the roll” the speaker asks: “Has everyone voted as they wish?” The machine shows the current status on its display panels and, as soon as the roll is closed, it prints out a permanent record.

In the senate, roll call votes are taken when ordered by the president or when requested by one-sixth of the members. The clerk calls the roll in alphabetical order and each member must respond “aye” or “no.” Senate Rule 72 states that members must “remain in their seats and shall not be disturbed by any other person while the ayes and noes are being called.”



## Third Reading

Once all pending amendments have been considered, the bill is ready for a third reading in which the bill itself may be discussed. The question that ends the second reading asks “Shall the proposal be ordered engrossed and read a 3rd time?” (Assembly Rule 46 (3)).

The rules of both houses prescribe a delay between second and third readings. Under Assembly Rule 40 “every assembly bill, and every senate bill received by the assembly for consideration, shall receive a reading on each of 3 separate and nonconsecutive days under the appropriate order of business...” Senate Rule 35 also requires 3 separate readings prior to passage but each proposal “may not receive 2 readings on the same day.” This delay is intended to allow members further time to study the bill, especially if it has been amended, and to give them the chance to enter a motion for reconsideration.

If the question for engrossment and third reading succeeds, the majority leader may ask for unanimous consent to suspend the rules that do not allow 2 readings on the same day and give the bill its third reading. Alternatively, a member may move to suspend the rules but this requires an affirmative vote from two-thirds of the members voting. In common practice, many bills undergo second and third readings on the same day. This permits legislators to move a particular piece of business to completion. Suspension of the rules may also speed the process when it is used to bring bills out of committee, change an order of business, or message an action immediately to the next house.

Once the bill has been ordered to a third reading, the debate on its contents takes place. No further amendments may be introduced. Usually the bill’s author will explain the proposal. Other members may speak on behalf of the bill. Opponents may try to refute any arguments made by supporters. There may be further motions on the bill, such as tabling or rereferral to a committee. When all members have finished speaking, the presiding officer states the question on passage and the members vote.

The Wisconsin Constitution, under Article VIII, Section 8, requires a roll call vote if the bill imposes, continues, or renews a tax; creates a state debt or charge; makes, continues, or renews an appropriation of public or trust money; or releases, discharges, or commutes a claim or demand of the state. Otherwise, votes on final passage are by voice vote, unless a member requests a roll call.

## Reconsideration

Before the proposal is messaged to the other house, one final motion is in order. Any member who voted with the prevailing side may move for reconsideration. Members who are known supporters or opponents of a measure may switch their votes to the opposite side at the last minute in order to be in a position to move for reconsideration. If the vote on passage ends in a tie vote or was a voice vote, any member may move for reconsideration. Reconsideration is designed to permit the correction of mistakes that were not immediately apparent while a bill was being debated. However, it also allows time to persuade some members to change their vote.

The motion for reconsideration may be offered immediately or under the proper order of business for the next legislative day. Motions to reconsider can be offered on amendments and motions as well as at final passage. If the motion is to reconsider an amendment, it must be entered immediately after an action on the amendment, immediately after the final vote

on the proposal at the second reading stage, or on the legislative day following such action or vote.

When the time expires for a motion for reconsideration or if such a motion fails, the proposal moves to the next stage. If the reconsideration motion is made after final passage and fails, then the bill is released to the other house.

In the case of 1991 Senate Bill 582, it took 2 motions to reconsider and 3 votes to pass the bill in the assembly. The purpose of the bill was to require that a minor child, age 16 or 17, who had been accused of a traffic or boating violation and was in custody, be held in a secure juvenile facility rather than an adult jail.

A problem had arisen because, under then-existing Wisconsin law, the youth would have been held in an adult jail while awaiting court action. After conviction, a youth required to serve a sentence of less than 6 months would be placed in a juvenile facility, but if sentenced to 6 months or more the juvenile might be placed in either an adult jail or juvenile detention. The standards set by the U.S. Juvenile Justice and Delinquency Prevention Act required that minor children be placed in juvenile detention instead of adult jails, and Wisconsin was threatened with the loss of federal funds if it failed to comply with the standard. Supporters of SB-582 wanted to preserve the federal funding. Opponents feared that it would cost the counties money to establish separate juvenile detention facilities.

The assembly voted against the bill by a 49 to 47 margin. A motion to reconsider by Representative Martin Reynolds, who had voted against it, carried. The assembly again voted against the bill. Representative Wayne Wood, who had voted “no” on the second vote, entered a motion for reconsideration that carried. On a third attempt, supporters found enough votes to pass the bill.

### **Messaging to the Second House**

Bills that are not controversial or have considerable bipartisan support are usually messaged immediately to the second house. The majority leader asks unanimous consent to suspend the rules or a member may enter a motion to suspend the rules. If consent is given or the motion prevails, the bill is then under control of the second house.

Substantial bills, such as budget bills, that are amended several times may be “printed engrossed.” When the chief clerk of either house orders an engrossed version of a bill, it is returned to the LRB for redrafting in agreement with the official record, based on the official copies of the bill and its amendments as contained in the bill jacket. All of the amendments adopted by the first house are combined with the original bill or any substitute amendment that may have been adopted into one text for consideration by the second house. If time permits, the LRB also writes a revised analysis that is printed with the engrossed measure. The attorney who drafted the original proposal reviews the text to make sure nothing was overlooked in the rush of amending. Any difficulties in the text are discussed with the bill’s authors and may result in introduction of a correctional amendment in the second house. The LRB is requested to engross a bill only a few times each session.

### **Action in the Second House**

In a bicameral legislature, both houses must agree on a bill’s language before it can be sent to the governor, and passage of a bill in one house is no guarantee of easy approval in

the other. During the 2013 regular session, 14 bills that passed the senate failed in the assembly, and 52 that passed the assembly died in the senate.

The procedure a bill follows in the second house is very similar to its treatment in the house of origin. The presiding officer of the second house may decide to bypass the standing committee and refer the bill directly to the rules committee or organization committee, which can then place the bill on the calendar. In the assembly, the speaker may decide to refer a proposal directly to the calendar for the second legislative day following referral. Urgent and noncontroversial bills often are expedited, but bills that raise major policy issues are likely to be referred to a standing committee and undergo one or more public hearings.

As in the house of origin, the bill undergoes a second and third reading once it reaches the floor. The second house may amend the bill. If it does, the bill must be returned to the original house for action on those amendments. If it does not, the question is concurrence, that is, does the second house agree with the bill as it was passed by the first house.

Looking again at the action on 2011 Assembly Bill 322 (Act 124), the senate concurred with the assembly version of the bill without amendments, and the bill was returned to the assembly. If the senate had adopted amendments to AB-322, the senate vote would have been on whether “to concur in AB-322 as amended.” Amendment in the senate would have necessitated the bill’s being returned to the assembly for consideration of those latter amendments. (The assembly would not be required to vote on the amendments. It could let the bill die without further action or it could reject the amendments and request a “committee of conference.”)

### **Resolving Differences: The Conference Committee**

When the 2 houses pass different versions of a bill, they may be able to either adopt amendments that resolve their differences or one house may recede from an amendment that is objectionable to the other house. If they cannot reach agreement, one house may request a committee of conference. Under Joint Rule 3 (1), “In all cases of disagreement between the senate and assembly on amendments, adopted by either house to a bill or joint resolution passed by the other house, a committee of conference consisting of 3 members from each house may be requested by either house, and the other house shall appoint a similar committee. At least one member from each house shall be a member of the minority party.” Conference committee members are appointed by the presiding officer of each house.

A conference committee report, which requires agreement of the majority of each house’s representatives, will consist of the committee’s recommendations to the legislature and may include one or more simple amendments or a substitute amendment to the bill. When either house takes up the conference report, the question is simply adoption or rejection of the report. A conference report cannot be amended. Approval of the report by roll call vote in each house constitutes final passage of the bill. Action on the report always starts in the second house so that the concluding vote will take place in the house in which the bill originated.

Under certain circumstances, a second conference committee may be required. When a conference committee cannot agree, a new one can be appointed, or if the legislature rejects the report of the first committee but is still interested in passage of the bill, it may choose to select a new committee.

## Enrolled Bills

After both houses have passed a bill and it is returned to the house of origin, the chief clerk of that house inspects all of the documents in the bill jacket, updates the bill history, and sends it to the LRB for “enrolling.” The enrolled bill is a clean true copy of the bill containing the text exactly as agreed to by both houses. At this point, there is an opportunity to ensure that no errors have crept into the bill. Copies of the final document are issued in “slip law” form, which is a loose-leaf printed version of the bill; an electronic version is available on the [legislative documents site](#) for the public. Each house attests to the passage of the bill as printed in slip law form on a copy that will be sent to the governor for action.

## Budget Bills

Procedures for the passage of a budget bill follow the same rules and procedures as for any other bill. However, because of its size and complexity, a budget bill requires more preparation. The budget bill is moved to second reading (the amendment stage) after the Joint Committee on Finance reports its version of the bill in the form of a substitute amendment. Although any member may offer amendments to the budget bill at this point, many of the changes are developed in party caucuses. The proposals adopted by the majority party caucus are drafted as an amendment, sometimes called a “super amendment,” which combines many of the simple amendments. The minority party caucus may also develop its own package. Once the caucuses have finished their deliberations, the budget usually is scheduled for floor debate as a special order of business.

The budget bill is printed in engrossed form after passage in the first house, and undergoes a similar process when the second house finishes its action. In some sessions, the budget bill requires a conference committee before final passage. After final approval, it is enrolled and ready for the governor’s consideration.

## VII. ACTION BY THE GOVERNOR – APPROVAL, VETO, OR PARTIAL VETO

Under [Section 10 of Article V](#) of the Wisconsin Constitution, the governor has 6 days (Sundays not included) to approve or veto bills passed by the legislature. If the governor fails to act on the bill within that limit, the bill becomes law without the governor’s signature. The governor’s office has not declined to act on a bill in many decades.

While in most states the time limit for gubernatorial review is counted from date of the bill’s final passage, in Wisconsin the 6-day period begins with official receipt of the bill by the governor’s office. This allows the governor to consider the proposed legislation in a more orderly fashion. The legislature informally supplies the governor’s office with copies of the enrolled bill for review by the governor and the governor’s staff, but because the bill has not been transmitted officially, the 6-day limit does not start to run. When the governor’s office is ready to take action, it informs the chief clerk’s office, which delivers the official copy, and the 6-day period begins. (Under [Assembly Rule 23 \(4\)](#), the speaker has the authority to send an enrolled bill to the governor, but this rarely happens.) Starting with the 1977 Legislature, the chief clerks have been given deadline dates in the session schedule by which all bills then enrolled must be delivered to the governor’s office. The 2013-2014 session schedule set 6 such dates for delivery of remaining bills to the governor.

Article V, Section 10, of the Wisconsin Constitution allows the governor to approve appropriation bills “in whole or in part,” which can result in “partial veto” of bills the legislature has approved. The legislature may override a partial veto but it requires a more stringent two-thirds vote in each house, which is harder to obtain.

As exercised by the governor’s office and based on interpretations by the Wisconsin Supreme Court, the power to partially veto bills is very extensive but it can only be applied to an appropriation bill.

Beginning with Governor Patrick Lucey, governors have used the partial veto to remove a single digit from an appropriation figure, thereby reducing it. They have done detailed editing of statutory language that not only diverged from the intent of the legislature, but, in some cases, enacted an alternative that the lawmakers had specifically rejected. Governors Anthony Earl and Tommy Thompson used a technique that the media termed the “pick-a-letter” veto. By striking out certain letters in the bill, they were able to form new words and rewrite statutory language, sometimes creating completely new policies that had never been considered by the legislature. Governor Thompson also extended the veto to include writing in new, lower numbers, thus changing the appropriation that had been passed by the legislature. Governor Jim Doyle was criticized for vetoing parts of different sentences to stitch together new sentences and rewrite policy, the so-called “Frankenstein veto.”

In April 1990, the voters approved a constitutional amendment that eliminated “pick-a-letter” partial vetoes. In April 2008, they approved another amendment eliminating the “Frankenstein veto.” Article V, Section 10 (1) (c), now reads: “In approving an appropriation bill in part, the governor may not create a new word by rejecting individual letters in the words of the enrolled bill, and may not create a new sentence by combining parts of 2 or more sentences of the enrolled bill.”

The state supreme court has addressed the partial veto practice and placed 2 restrictions on it. First, after the vetoed parts are deleted, the part of an appropriation bill approved by the governor must be a “complete and workable law.” Second, the law resulting from a partial veto must be germane to the subject matter of the vetoed provisions as originally passed by the legislature.

One type of veto, the “pocket veto,” no longer occurs in Wisconsin, but a good illustration of this procedure exists at the national level. The U.S. Constitution sets a 10-day limit after the final adjournment of Congress for the President to act on a bill. If no action is taken, a pocket veto occurs. In effect, it is a veto by inaction. The pocket veto did exist in Wisconsin, but it has, in effect, been eliminated by the current method for scheduling legislative sessions. Because the Wisconsin Legislature now stays in continuous session (composed of floor periods and committee work periods) throughout the biennium and then adjourns on the same day that the succeeding legislature is inaugurated, there is no time when the governor is prevented from returning a vetoed or partially vetoed bill for legislative review because the legislature is not in session.

Bills vetoed in entirety or those portions of bills that are partially vetoed are returned with the governor’s written objections for first consideration in the house of origin. The constitution requires a two-thirds roll call vote of the members present and constituting a quorum of each house to override the governor’s veto. The portion of an act in which a veto is overridden is published as a supplement to the Wisconsin act of which it is a part.



Moving a bill proposal from the drafting stage to enactment into law is a formidable procedure. About 20 percent of the drafts requested are introduced as bills. Of the bills introduced, the majority die in the first committee to which they are referred. Out of 1,641 special and regular session bills introduced in the 2013 session, only 380 eventually became law. Since the mid-2000s, the legislature has rarely passed more than 25 percent of all bills introduced.

## VIII. CASE STUDY

The following is a case study of 2009 Wisconsin Act 250 and 2013 Wisconsin Act 115, both dealing with use of race-based nicknames, logos, mascots, or team names (nicknames) by school districts. The study illustrates aspects of the legislative process from the inception of each bill to the enactment of each as a law. The study will discuss the process of drafting, involvement of interest groups in the legislative process, committee action in each house,

<div data-bbox="217 726 295 806"></div> <div data-bbox="378 732 579 774"> <p>State of Wisconsin 2009 - 2010 LEGISLATURE</p> </div> <div data-bbox="644 756 742 789"> <p>LRB-1124/1 TKK:nwn&amp;kj:md</p> </div> <div data-bbox="344 861 612 888"> <p><b>2009 SENATE BILL 25</b></p> </div> <div data-bbox="245 968 745 1075"> <p>February 3, 2009 - Introduced by Senators COGGS, HANSEN, CARPENTER, RISSE, HOLPERIN and TAYLOR, cosponsored by Representatives SOLETSKI, POPE-ROBERTS, MURSAU, YOUNG, BENEDICT, BERCEAU, BLACK, COLON, CULLEN, FIELDS, GRIGSBY, HILGENBERG, KESSLER, MOLEPSKE JR., MASON, MILROY, NELSON, PARISIL, PASCH, POCAN, RADCLIFFE, SCHNEIDER, SHERMAN, SHERIDAN, SHILLING, SINICKI, SMITH, STEINBRINK, TURNER, VAN AKKEREN and A. WILLIAMS. Referred to Committee on Education.</p> </div> <div data-bbox="196 1134 748 1215"> <p>1 <b>AN ACT to create</b> 118.134 of the statutes; <b>relating to:</b> the use of race-based 2 names, nicknames, logos, and mascots by school boards, requiring the exercise 3 of rule-making authority, and providing a penalty.</p> </div> <div data-bbox="337 1257 649 1278"> <p><i>Analysis by the Legislative Reference Bureau</i></p> </div> <div data-bbox="240 1278 750 1497"> <p>Current law prohibits discrimination against pupils on a number of grounds, including race and ancestry. This bill provides that a school district resident may object to a school board's use of a race-based name, nickname, logo, or mascot by filing a complaint with the state superintendent of public instruction. The state superintendent must schedule a hearing on the complaint, at which the school board has the burden of proving by clear and convincing evidence that the use of the race-based name, nickname, logo, or mascot does not promote discrimination, pupil harassment, or stereotyping. If the state superintendent finds in favor of the complainant, the state superintendent must order the school board to terminate its use of the race-based name, nickname, logo, or mascot within 12 months after issuance of the order. A school board is subject to a forfeiture of not less than \$100 nor more than \$1,000 for each day that it uses the race-based name, nickname, logo, or mascot in violation of the order. The decision of the state superintendent is subject to circuit court review.</p> </div>	<div data-bbox="886 730 1042 749"> <p>2009 - 2010 Legislature</p> </div> <div data-bbox="1107 730 1148 749"> <p>- 2 -</p> </div> <div data-bbox="1292 730 1396 760"> <p>LRB-1124/1 TKK:nwn&amp;kj:md</p> </div> <div data-bbox="889 753 1016 772"> <p><b>SENATE BILL 25</b></p> </div> <div data-bbox="886 798 1403 833"> <p>For further information see the <i>state and local</i> fiscal estimate, which will be printed as an appendix to this bill.</p> </div> <div data-bbox="886 861 1403 896"> <p><i>The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:</i></p> </div> <div data-bbox="842 913 1403 1497"> <p>1 <b>SECTION 1.</b> 118.134 of the statutes is created to read: 2 <b>118.134 Race-based names, nicknames, logos, and mascots.</b> (1) 3 Notwithstanding s. 118.13, a school district resident may object to the use of a 4 race-based name, nickname, logo, or mascot by the school board of that school 5 district by filing a complaint with the state superintendent. The state 6 superintendent shall notify the school board of the receipt of the complaint and 7 schedule a contested case hearing within 45 days after the complaint is filed. 8 (2) At the hearing, the school board has the burden of proving by clear and 9 convincing evidence that the use of the race-based name, nickname, logo, or mascot 10 does not promote discrimination, pupil harassment, or stereotyping, as defined by 11 the state superintendent by rule. 12 (3) The state superintendent shall issue a decision and order within 45 days 13 after the hearing. If the state superintendent finds that the use of the race-based 14 name, nickname, logo, or mascot does not promote discrimination, pupil harassment, 15 or stereotyping, the state superintendent shall dismiss the complaint. If the state 16 superintendent finds that the use of the race-based name, nickname, logo, or mascot 17 promotes discrimination, pupil harassment, or stereotyping, the state 18 superintendent shall order the school board to terminate its use of the race-based 19 name, nickname, logo, or mascot within 12 months after issuance of the order. 20 Decisions of the state superintendent under this subsection are subject to judicial 21 review under ch. 227.</p> </div>
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<div data-bbox="561 1568 717 1587"> <p>2009 - 2010 Legislature</p> </div> <div data-bbox="782 1568 823 1587"> <p>- 3 -</p> </div> <div data-bbox="969 1562 1068 1606"> <p>LRB-1124/1 TKK:nwn&amp;kj:md <b>SECTION 1</b></p> </div> <div data-bbox="561 1591 686 1610"> <p><b>SENATE BILL 25</b></p> </div> <div data-bbox="521 1635 1075 1682"> <p>1 (4) The state superintendent shall promulgate rules necessary to implement 2 and administer this section.</p> </div> <div data-bbox="521 1692 1075 1795"> <p>3 (5) Any school board that uses a race-based name, nickname, logo, or mascot 4 in violation of sub. (3) shall forfeit not less than \$100 nor more than \$1,000. Each 5 day of use of the race-based name, nickname, logo, or mascot in violation of sub. (3) 6 constitutes a separate violation.</p> </div> <div data-bbox="521 1806 823 1824"> <p>7 (END)</p> </div>	
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Fiscal Estimate Narratives DPI 2/9/2009		
LRB Number	09-1124/1	Introduction Number SB-025
Estimate Type	Original	
<b>Description</b> The use of race-based names, nicknames, logos, and mascots by school boards, requiring the exercise of rule-making authority, and providing a penalty		
<b>Assumptions Used in Arriving at Fiscal Estimate</b> Senate Bill 25 would allow a resident to object to the school district's use of a race-based name, nickname, logo or mascot by filing a complaint with the State Superintendent. If discrimination is found, the school district will be ordered to terminate use of the name, logo or mascot within 12 months. Failure to terminate use could result in the district being subject to a \$100-\$1,000 forfeiture per day. Local: There are approximately 40 schools in the state that currently use American Indian names, nicknames, logos or mascots. If required to terminate the use of the race-based name, nickname, logo or mascot, costs to a school district would be related to the replacement of existing supplies, team uniforms and associated inventory that currently bear the name, nickname, logo or mascot, and would vary from district to district. It is unknown how many, if any, residents of districts will file complaints and how many hearings will result in termination of the name, nickname, logo or mascot. Thus, local costs are indeterminate. It is also not known how many, if any, districts will not terminate use of their name, nickname, logo or mascot if ordered to do so. These districts would be subject to a forfeiture of \$100-\$1,000 per day. It is not known how many days that districts would remain out of compliance or the exact amount they'd be ordered to pay. Therefore, the fiscal effect of these provisions are also not able to be determined. State: Costs to DPI will be related to the number of complaints that are brought to the State Superintendent. Because it is not known how many, if any, complaints will be made, the costs are indeterminate.		
<b>Long-Range Fiscal Implications</b>		
<b>Fund Source</b> <input type="checkbox"/> GPR		
Agency/Prepared By	Authorized Signature	Date
DPI/ Kimberly Chase (608) 266-1344	Michael Bormett (608) 266-2804	2/9/2009

floor action, and the decision in each case by the governor to approve the bill.

Athletic teams throughout the nation have frequently used and continue to use nicknames that include references or imagery associated with racial or ethnic groups, perhaps most frequently to Native American groups. The National Football League, for example includes teams with nicknames of the Chiefs and the Redskins and Major League Baseball includes teams with nicknames of the Indians and the Braves. Similar usage, of course, occurs at nonprofessional levels. For instance, the National Collegiate Athletic Association in 2005 requested

31 member institutions consider the appropriateness of their use of Native American nicknames.

Over the past several decades there has been a clear change in society's acceptance of the use of these nicknames. However, team nicknames are often difficult to give up. Considerable money, not to mention emotion, has often been expended in developing a team identity. Nonetheless, in some instances nicknames and mascots have been scrapped due to the perception that the nickname or mascot reflected unacceptable stereotypes or was causing undue offense. In other cases, nicknames have been retained, sometimes with modification to the imagery. In Wisconsin, for example, Marquette University in Milwaukee eliminated the use of its "Willie Wampum" mascot in 1971 and ultimately, in 1994, the "Warrior" nickname. In contrast, Florida State University continues to use the "Seminoles" as its nickname and "Chief Osceola" as a part of its football game day spectacle, but has sought to maintain a relationship with the Seminole Tribe of Florida regarding the use.

At least as far back as 1997, bills have been introduced in the Wisconsin Legislature that were designed to limit the use of nicknames associated with Native Americans. 1997 Assembly Bill 384 would have prohibited the use of a specified set of nicknames (Apaches, Blackhawks, Braves, Chiefs, Chieftains, Indees, Indians, Raiders, Red Raiders, Redmen, Warhawks, and Warriors). Later bills, as will be described below, took a more comprehensive approach, allowing a challenge to any ethnic nickname. Until 2009, however, none of these bills was reported out of committee.

In December 2008, Senator Spencer Coggs requested the draft that would become 2009 Senate Bill (SB) 25. The bill essentially replicated the bills that would have limited the use

of ethnic-based nicknames that had been introduced since 1999. The only significant change was that SB-25 referred to “race-based,” rather than “ethnic-based,” nicknames. Specifically, SB-25 established a procedure for challenging and eliminating the use of a race-based nickname. Under the bill any resident of a school district could file a complaint with the state superintendent objecting to the district’s use of a race-based name, nickname, logo, or mascot. The state superintendent would then be required to hold a contested case hearing, at which the school board would have the burden of demonstrating by clear and convincing evidence that the name, nickname, logo, or mascot does not promote discrimination, pupil harassment, or stereotyping. The state superintendent would then have 45 days following the hearing to issue an order either dismissing the complaint or ordering the district to terminate its use of the name, nickname, logo, or mascot within 12 months. The bill also provided that a school district would be subject to a forfeiture of from \$100 to \$1,000 for each day it is in violation of a superintendent’s order.

Senator Coggs introduced the bill on February 3, 2009, just about a month after the 2009-2010 Legislature convened. The bill was assigned to the Senate Committee on Education. A companion bill, 2009 Assembly Bill 35, was introduced by Representative Jim Soletski 9 days later. AB-35 was assigned to the Assembly Committee on Education.

The drafter of the 2 bills determined that the bills were likely to “increas[e] or decreas[e] existing ... state or general local government fiscal liability or revenues,” and so, pursuant to Joint Rule 41, indicated that a fiscal estimate statement should be provided. Since the Department of Public Instruction (DPI) was the agency of the state affected by the bill, under Joint Rule 42, it was requested to provide the fiscal estimate. DPI ascertained that there would be a fiscal impact, but that the impact was indeterminate. At the time of the introduction of SB-25 and AB-35, DPI estimated that there were approximately 40 schools in the state that used Native American nicknames. Each of these districts could face the costs associated with contesting complaints seeking the termination of its nickname and the costs of replacing school materials that bear the nickname if use of the nickname is ordered terminated. In addition, a district could also face a forfeiture of \$100 to \$1,000 per day if ordered to terminate use of a nickname and the district fails to comply with the order. DPI also determined that the agency itself would face increased costs related to administering complaints filed with, and hearings before, the State Superintendent. Because the increased costs faced by DPI and the districts would be contingent on the number of complaints filed, the actions of the parties in response to a complaint, and local conditions in a school district where a complaint is filed, DPI did not attempt to provide a particular amount of estimated fiscal impact.

Still very early in the 2009-10 legislative session, on March 17, 2009, the Assembly Committee on Education held a public hearing on AB-35. Turnout of those in favor of the bill was quite strong. Over 25 supporters offered testimony and another 40 registered in favor of the bill. State Superintendent Elizabeth Burmaster’s testimony, delivered by representatives from DPI, was reasonably representative of the arguments made by most supporters of the bill. She argued, first, that there is a “clear link between the use of American Indian mascots, logos, and nicknames and psychological harm ... particularly [to] American Indian students.” She also claimed that “stereotypical American Indian logos interfere with a school’s efforts to provide accurate, authentic instruction on the history, culture, and tribal sovereignty of American Indian nations.” Another supporter, a high school sophomore and

a member of the Menominee tribe, felt that Native American nicknames and mascots contribute to stereotyped views.

Though not as numerous, many opponents of the bill also appeared and provided testimony. Clearly, many of the objectors did not disagree with some of the issues identified by the supporters of the bill. Indeed, many opponents of the bill felt that the self-esteem of young people was important and that the cultures of Native American tribes were worthy of respect and celebration. However, many of the opponents of the bill came from communities that were affiliated in some way with a school district that could be compelled to terminate use of a nickname. Some of these people strongly denied that all race-based nickname uses were offensive. In certain cases, they contended, the nicknames were strong elements of pride in their community. For example, one citizen testified that “6 generations have been apart (sic) of this school system ... We are honored to be the Indians.” Such testimony was certainly not unexpected since similar sentiment was echoed in statements regarding the proposed legislation appearing in opinion pieces and letters to the editor in various newspapers and in blogs, articles, and online comment sections of Web sites. *Milwaukee Journal Sentinel* (MJS) columnist Mike Nichols expressed the feelings of many when he wrote in a February 9, 2009, column that Native American mascots are “what many of us see as a simple recognition of our history...”

In addition, opponents of the bill raised a number of other not insubstantial concerns. The Wisconsin Association of School Boards (WASB), for example, took issue with the method of resolving nickname disputes prescribed in the bill. WASB suggested instead that a locally adjudicated procedure and a procedure not so heavily weighted in favor of discontinuing a nickname’s use would be more appropriate. WASB and others also took issue with the potential fiscal impacts of the bill. Costs, including litigation expenses, potential forfeitures, replacing supplies, uniforms, and other inventory and even facilities modification, for affected school districts could be high. Nothing in the bill assisted school boards with these potentially onerous costs.

On March 20, a few days after the hearing, Representative Soletski introduced Assembly Amendment (AA) 1 to AB-35. The amendment was apparently in response to the concern by school districts regarding the potential costs of the bill. Under AA-1, AB-35 would be modified to allow the state superintendent to excuse noncompliance with an order to terminate use of a nickname for up to 24 months if the school district demonstrated “extenuating circumstances.” Later in the year, on June 18, Representative Soletski introduced Assembly Substitute Amendment (ASA) 1 to AB-35. ASA-1, like any substitute amendment, provided essentially a complete replacement for the bill. ASA-1 incorporated AB-35 as introduced, the extenuating circumstances provision from AA-1, and a couple of other more or less technical changes to AB-35.

On March 24, 2009, the Assembly Committee on Education held an executive session on AB-35. The committee unanimously recommended the adoption of AA-1 to AB-35. The committee also recommended passage of AB-35 as amended, but by a narrower 8 to 5 vote. Almost a full year later, the bill was reported out of the education committee, and the Assembly Committee on Rules placed AB-35 on the calendar for the February 23, 2010, assembly session. This date was likely chosen because it coincided with the annual State of the Tribes address to the combined legislature.



At the February 23 Assembly session, ASA-1 and 3 amendments to ASA-1 were offered. AA-1 to ASA-1, offered by Representative Amy Sue Vruwink, provided that a nonresident pupil attending a public school through open enrollment could not file a complaint objecting to the school's nickname. AA-2 to ASA-1, also offered by Representative Vruwink, provided that if a school board that uses a race-based nickname referencing a specific Native American tribe has received approval from the tribe for the use, the state superintendent may decline to proceed with a hearing on the nickname. AA-3 to ASA-1, offered by Representative Tony Staskunas, clarified the procedure to be applied when it was ambiguous as to whether a nickname is race-based. Each of the 3 amendments to ASA-1 was adopted, as was ASA-1. (AA-1 failed at first, but was adopted after a reconsideration motion.) Following the adoption of ASA-1 as amended, Representative Tom Nelson requested unanimous consent to suspend assembly rules and give AB-35 its third and final reading. Representative Steve Nass, however, objected and no further action on the bill could take place on February 23. Two days later, though, the assembly met again. This time AB-35 was given its third reading and was passed by a 51-42 vote.

Meanwhile, the Senate Committee on Education had held a public hearing on SB-25 on January 13, 2010. The testimony received at this hearing was much the same as that received at the assembly committee hearing on AB-35. About 3 dozen, many of whom testified in the earlier assembly committee hearing, testified in favor of the bill and several testified against. The arguments were also quite similar to those made for AB-35. Those in favor frequently argued that Native American nicknames were disrespectful and harmful; those against mostly argued that particular nickname usages reflected local tradition or respect for Native American heritage and that the procedure created in SB-25 was flawed.

An executive session of the Senate Committee on Education was scheduled for April 7, 2010, with SB-25 and 2 substitute amendments on the agenda. Earlier, Senator Coggs had introduced SSA-1 to SB-25, which contained the same language as ASA-1 to AB-35, but this amendment was not considered at the executive session. The day before the executive session, Senator Luther Olsen introduced SSA-2 to SB-25. This amendment provided an alternate process for reviewing race-based nicknames that started with a school board hearing and allowed an appeal of the school board decision to the state superintendent. The day of the executive session, the committee introduced SSA-3 to SB-25. This amendment incorporated AB-35 as amended by the assembly and an additional provision allowing, under certain conditions, delay of compliance with a superintendent's order. At the executive session SSA-2 was not recommended for adoption by a 2-5 vote and SSA-3 was recommended for adoption by a 5-2 vote. The committee also recommended, by a 4-3 vote, passage of SB-25 as amended. The next day, the Committee on Senate Organization voted to place SB-25 on the senate calendar for April 13.

At the April 13 senate session, SSA-3 and 4 amendments to SSA-3 were considered. SA-1 to SSA-3 was introduced by Senator Olsen and essentially reprised SSA-2, the amendment rejected by the Senate Committee on Education. SA-2 to SSA-3, introduced by Senator Alan Lasee, appropriated state money to be used to assist school districts that are ordered to terminate use of race-based nicknames. SA-3 to SSA-3, introduced by Senator Glenn Grothman, limited the effect of the bill to Native American nicknames rather than all race-based nicknames. SA-4 to SSA-3, also introduced by Senator Grothman, allowed a person who is a member of a Native American tribe referred to in an objected-to nickname to rebut the pre-



State of Wisconsin



2009 Senate Bill 25

Date of enactment: May 5, 2010  
Date of publication\*: May 19, 2010

**2009 WISCONSIN ACT 250**

AN ACT to amend 118.51 (13); and to create 118.134 of the statutes; relating to: the use of race-based nicknames, logos, mascots, and team names by school boards, providing an exemption from emergency rule procedures, requiring the exercise of rule-making authority, and providing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 118.134 of the statutes is created to read: 118.134 Race-based nicknames, logos, mascots, and team names. (1) Notwithstanding s. 118.13 and except as provided in sub. (3m), a school district resident may object to the use of a race-based nickname, logo, mascot, or team name by the school board of that school district by filing a complaint with the state superintendent. If the complainant objects to the use of a nickname or team name by the school board, the state superintendent shall immediately review the complaint and determine whether the use of the nickname or team name by the school board, alone or in connection with a logo or mascot, is ambiguous as to whether it is race-based. The state superintendent shall do all of the following:

(a) Notify the school board of the receipt of the complaint and of the state superintendent's determination regarding whether the use of the nickname or team name is ambiguous as to whether it is race-based and direct the school board to submit, if applicable, any of the information under sub. (1m) (a).

(b) Except as provided in sub. (1m), schedule a contested case hearing within 45 days after the complaint is filed.

(1m)(a) The state superintendent may determine that no contested case hearing is necessary or that a hearing date may be postponed for the purpose of obtaining additional information from the school board if, no later than 10 days after being notified of the receipt of the complaint, the school board submits evidence to the state superintendent that demonstrates all of the following:

1. The nickname, logo, mascot, or team name that is used by the school board and that is the basis of the complaint is a reference to or depiction or portrayal of the name of a specific, federally recognized, American Indian tribe.

2. The federally recognized American Indian tribe under subd. 1. has granted approval to the school board to refer to or depict or portray the tribe in a nickname, logo, or mascot or to use the name of the tribe as a team name in the specific manner used by the school board and has not rescinded that approval.

3. The use of the nickname, logo, mascot, or team name that has been approved by the tribe as provided in subd. 2. is the use to which the school district resident objects in the complaint filed under sub. (1).

(b) If the state superintendent does any of the following, the state superintendent shall notify the school district resident who filed the complaint under sub. (1) and the school board of his or her decision in writing:

\* Section 991.11, WISCONSIN STATUTES 2007-08: Effective date of acts. "Every act and every portion of an act enacted by the legislature under the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

sumption of discrimination, pupil harassment, or stereotyping. The senate voted to lay each of these amendments on the table. The senate then voted to adopt SSA-3 to SB-25 on a voice vote and SA-25 was read a third time and passed by a vote of 17-16.

The assembly and senate had passed similar bills regarding race-based nicknames. In Wisconsin, however, each house must pass the same version of the same bill before the bill may be presented to the governor. Therefore, on April 15, the Assembly Committee on Rules made SB-25 a special order of business on the April 20 assembly calendar. On April 20, the bill was read a second time, ordered to a third reading, and concurred in by a 53-45 vote. The bill was presented to Governor Jim Doyle on May 4, 2010, and signed the next day. On May 19, 2010, the enacted bill was published as 2009 Wisconsin Act 250.

Though the votes were not straight party-line votes, 2009 Act 250 had been principally supported by Democrats and principally opposed by Republicans. The makeup of Wisconsin's government changed dramatically for the 2011-2012 session. Democratic Governor Jim Doyle chose not to run for reelection in 2010. Republican Scott Walker was elected to the governor's office for 2011. For the 2009-2010 legislative session, both the senate and the assembly were controlled by Democrats. The 2010 legislative elections reversed this. Republicans gained a 19-14 advantage in the senate and a 60-38 (1 Independent) advantage in the assembly.

Perhaps unsurprisingly, calls by some for change to the race-based nickname law began almost immediately after the 2010 election. Shortly after 2009 Act 250 took effect, the first complaints against school district nicknames were filed. Eventually, DPI ordered cessation of nickname use in Osseo-Fairchild, Berlin, and Mukwonago. Several other schools changed nicknames possibly fearing the potential of a challenge and a mandatory and more precipitous change of the district's nickname. Indeed, one of the first bills introduced in the 2011-12 session was 2011 AB-26, introduced by Representative Nass, which would have simply eliminated the process created by 2009 Act 250 and voided any order issued under that law. That bill, however, failed to receive any action following referral to the Assembly Committee on Homeland Security and State Affairs.

Efforts to change the race-based nickname law continued in the 2013-14 session in the form of 2 proposals. The first was 2013 AB-297, introduced by Representative Nass on August 23, 2013. This bill, as introduced, took the approach of 2011 AB-26, i.e., eliminating the process created by 2009 Act 250. AB-297 was initially referred to the Assembly Committee on Urban and Local Affairs, but was later withdrawn from that committee and rereferred to the Committee on Government Operations and State Licensing. On September 26, 2013, Assembly Speaker Representative Robin Vos announced that a group of Republican legislators, including Representative Nass, the author of AB-297, had reached an agreement on how to proceed on the race-based nickname issue. Rather than eliminate the process created in 2009 Act 250, the legislators proposed to substantially change the process by “put[ting] the proper mechanism in place for appeals from the community without putting an undue burden on school districts.” ASA-1 to AB-297 was introduced on September 27 and included the following principal changes to the procedure for challenging a race-based nickname:

1. A complaint challenging a nickname must include the signatures of at least 10 percent of the school district’s population;
2. The State Division of Hearings and Appeals, rather than the State Superintendent, holds the hearing on a complaint;
3. The burden of proof at the hearing is reversed, i.e., the complaining resident must demonstrate that the nickname promotes discrimination, pupil harassment, or stereotyping;
4. A hearing is not required if a school board has entered an agreement with a federally recognized Native American tribe that has historical ties to Wisconsin approving the school board’s use of a nickname.

In addition, ASA-1 voided any previous orders by DPI to terminate the use of a race-based nickname and limited the authority of a school district to be a member of an interscholastic athletic association that prohibits use of race-based nicknames. On October 2, 2013, Senator Mary Lazich introduced the second bill in the 2013-14 session relating to race-based nicknames: 2013 SB-317, a bill essentially the same as ASA-1 to AB-297.

On October 3, 2013, the Assembly Committee on Government Operations and State Licensing held a public hearing on AB-297. Opponents at the hearing outnumbered proponents about 2 to 1 and their positions were just about reversed from the hearings on the bill that became 2009 Act 250. Speaking for the proponents of AB-297, one of the principal sponsors of the bill, Representative Dave Craig, set forth the argument for change:

Under this bill, no longer can a single individual force an entire school district to spend tens of thousands of dollars to challenge unsubstantiated claims of discrimination. Under this bill, no longer does the accused have a presumption of guilt. Under this bill, no longer can an individual with no connection to a so-called discriminated group make a discrimination complaint even if the so-called discriminated group publicly states that no discrimination is occurring.

Representatives of 2 school districts affected by 2009 Act 250 provided testimony echoing Representative Craig’s remarks and highlighting the costs to communities of the race-based nickname law. Persons affiliated with the Mukwonago School District in particular described the intense legal efforts of the school district to retain its “Indians” nickname that was not, they asserted, discriminatory or disrespectful. Opponents argued that the bill was an unwarranted step backward, “mak[ing] it easier to retain team names that are ‘truly of-

fensive, damaging and hurtful to so many people.” (“Hearing heated on mascot measure,” *MJS* 10/4/13.)

The committee held an executive session on AB-297 on October 9. At the session, the committee recommended adoption of ASA-1 by a 7-4 vote and recommended passage of AB-297 as amended also by a 7-4 vote. The next day the Assembly Committee on Rules placed AB-297 on the October 15 assembly calendar. On October 15, the bill was given its second reading. Assembly Democrats did not offer any amendments. They did, however, move to have the bill referred to the Committee on Education. This motion was defeated by a 38-57 vote. ASA-1 to AB-297 was then adopted by a voice vote, the bill was given its 3rd reading, and it passed 52-41.

Meanwhile, SB-317 had been referred to the Senate Committee on Government Operations, Public Works, and Telecommunications. On October 9, a public hearing was held with testimony similar to that at the committee hearing for AB-297. Representative Nass asserted that “SB 317 ... create[s] a fair and balanced process going forward that encourages this issue to be addressed at the community level through discussions with the tribes, but still provides a remedy procedure to address legitimate cases of pupil discrimination and harassment.” Representatives of DPI countered that the bill essentially removed the complaint process. Other opponents claimed that the bill’s sponsors did not recognize the reasonable concerns of Native Americans likely to be primarily affected by the bill.

The next week, on October 14, the committee held an executive session and voted 4-3 to recommend passage of SB-317. That same day the bill was referred to and withdrawn from the Joint Committee on Finance and placed on the October 15 senate calendar by the Committee on Senate Organization. A few amendments to SB-317 were introduced; however, the senate ultimately tabled SB-317.

The senate received AB-297 from the assembly on October 15. The bill was referred to the Committee on Senate Organization on October 22. Senate Rule 18 generally requires that a bill receive a public hearing before it may be placed on the senate calendar. At a November 4 Committee on Senate Organization meeting, however, the committee voted to waive the public hearing requirement for AB-297 and the bill was placed on the November 5 senate calendar.


On November 5, 2 amendments were considered. The first, SSA-1 to AB-297, was offered by Senator Dale Schultz. SSA-1 would have removed the procedure for contesting race-based nicknames established in 2009 Act 250 and replaced it with a rather different procedure involving an initial identification by DPI of schools using race-based nicknames, a school board review of the use, and a potential appeal of a school board decision. This amendment was rejected by a 17-16 vote. The second amendment considered, SA-1 to AB-297, was introduced by Senator Jennifer Shilling. SA-1 would have eliminated the signature requirement, i.e., the requirement that a number of signatures must be obtained before a complaint challenging a race-based nickname may be filed. This amendment was also rejected by a 17-16 vote. Following the votes on the amendments, Senator Tim Carpenter moved that AB-297 be referred to the Senate Committee on State and Federal Relations. This motion was defeated by a 15-18 vote.

A contentious debate followed. The Republican supporters of the bill emphasized that the intent of the bill was to reform the procedure initiated under 2009 Act 250. Senator

Lazich, for example, highlighted the difficulty in keeping a nickname after a complaint is filed ("Mascot Bill Passes," *MJS*, 11/6/2013). She suggested that schools that were not actually discriminating should have a fair opportunity to be heard on the issue. The primarily Democrat opponents countered that the bill essentially over-corrected: that legitimate complainants would not be able to receive review of an offensive nickname. This would, they asserted, ensure continuing use of racist nicknames. After lengthy debate, the senate concurred in AB-297 by a 17-16 vote.

The bill was presented to Governor Scott Walker on December 12. Governor Walker had been to this point rather quiet regarding his support for the bill, several times stating that the bill was not a priority of his and that he would consider it only if and when it arrived on his desk. He expressed concern with the use of Native American nicknames, but also with extensive state involvement in determining nicknames of school districts. Ultimately, on December 19, Governor Walker chose to sign the bill. While again highlighting concern with the use of Native American nicknames, Governor Walker argued that his decision rested on free speech concerns.

State of Wisconsin



2013 Assembly Bill 297

Date of enactment: December 19, 2013  
Date of publication\*: December 20, 2013

## 2013 WISCONSIN ACT 115

AN ACT *to repeal* 118.134 (1m) (a) 1., 118.134 (1m) (b) 2. and 118.134 (2) (b); *to renumber and amend* 118.134 (2) (a) and 118.134 (4); *to consolidate, renumber and amend* 118.134 (1m) (b) (intro.) and 1., *to amend* 20.505 (4) (kp), 118.134 (1) (intro.), 118.134 (1) (a), 118.134 (1) (b), 118.134 (1m) (a) (intro.), 118.134 (1m) (a) 2., 118.134 (1m) (a) 3., 118.134 (3) (a), 118.134 (3) (b) 2., 118.134 (3) (c), 118.134 (3) (d) and 118.134 (5); and *to create* 118.134 (3r), 118.134 (4) (b), 227.43 (1) (bd), 227.43 (3) (br) and 227.43 (4) (br) of the statutes; relating to: race-based nicknames, logos, mascots, and team names and making an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 20.505 (4) (kp) of the statutes is amended to read:

20.505 (4) (kp) *Hearings and appeals fees.* The amounts in the schedule for hearings and appeals services to the department of health services under s. 227.43 (1) (b), the department of children and families under s. 227.43 (1) (by), the department of public instruction under s. 227.43 (1) (bd), and to all agencies under s. 227.43 (1m). All moneys received from the fees charged under s. 227.43 (3) (br), (c), (d), and (e) shall be credited to this appropriation account.

**SECTION 2.** 118.134 (1) (intro.) of the statutes is amended to read:

118.134 (1) (intro.) Notwithstanding s. 118.13 and except as provided in sub. (3m), a school district resident may object to the use of a race-based nickname, logo, mascot, or team name by the school board of that school district by filing a complaint containing a number of signatures of school district electors equal to at least 10 percent of the school district's membership, as defined in s.

121.004 (5), with the state superintendent. If the complainant objects to the use of a nickname or team name by the school board, the state superintendent shall immediately review the complaint and determine whether the use of the nickname or team name by the school board, alone or in connection with a logo or mascot, is ambiguous as to whether it is race-based. A signature on a complaint is valid only if the signature is obtained within the 120-day period before the complaint is filed with the state superintendent. The state superintendent shall do all of the following:

**SECTION 3.** 118.134 (1) (a) of the statutes is amended to read:

118.134 (1) (a) Notify the school board of the receipt of the complaint and of the state superintendent's determination regarding whether the use of the nickname or team name is ambiguous as to whether it is race-based and direct the school board to submit, if applicable, any of the information under sub. (1m) (a).

**SECTION 4.** 118.134 (1) (b) of the statutes is amended to read:

118.134 (1) (b) Except as provided in sub. (1m), schedule refer the complaint to the division of hearings and appeals for a contested case hearing within 45 days

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."



If the state bans speech that is offensive to some, where does it stop? A person or persons' right to speak does not end just because what they say or how they say it is offensive. Instead of trying to legislate free speech, a better alternative is to educate people about how certain phrases and symbols that are used as nicknames and mascots are offensive to many of our fellow citizens. ("Scott Walker signs bill on Indian team names and mascots," *MJS*, 12/19/13.)

2013 Wisconsin Act 115 took effect on December 21.

## IX. APPENDIX

### A. GLOSSARY

**Act:** A law enacted by means of a bill that is approved by both houses of the legislature and signed by the governor. Bills passed by the legislature may also become law without the governor's signature if the governor fails to take action on them within set time limits or they are passed by the legislature over the governor's veto.

**Adoption:** Final action taken on all amendments and conference committee reports. Each house may "adopt" or "refuse to adopt" an amendment or report.

**Amendment:** A proposal to change a bill, joint resolution, or resolution by adding, deleting, or substituting language. (See also simple amendment and substitute amendment.)

**Appropriation:** The setting aside of public revenues for a specific use or program.

**Author(s):** The legislator or legislative committee that introduces a bill or resolution. Additional members of the same house who sign the bill are referred to as "coauthors," while cosigners from the other house are called "cosponsors."

**Bill:** A proposal, drafted in legal language, to change current law by adding new language or deleting or amending existing language.

**Bulletin of Proceedings:** A legislative publication that contains: a numerical list of all bills and other measures introduced and the actions taken on them; indexes by subject matter and author of all measures introduced; and a numerical listing of existing statute sections and session laws affected by acts and enrolled bills of the current session and acts from previous sessions that have delayed effective dates.

**Calendar:** The daily schedule of business for each house that shows the order in which proposals and other business will be taken up on the floor.

**Committee:** A group of legislators appointed to review proposals and policies within a certain subject area. Committees typically hold public hearings on bills referred to them and report their recommendations for further consideration of the proposals on the floor of the house. (See also conference committee, special committee, and standing committee.)

**Concurrence:** The action of the second house in agreeing to a measure that has passed the house of origin. The second house may "concur" or "nonconcur" in the measure.

**Conference Committee:** A committee whose members are appointed by both houses when the 2 have passed different versions of some proposal and cannot agree on identical wording.

**Constituents:** People who live in a given senate or assembly district.

**Engross:** To incorporate all adopted amendments into a proposal in the house of origin and end the second reading. Occasionally, a proposal may be "printed engrossed." This re-



quires printing a revised version of the proposal that incorporates all amendments and corrections before consideration in the second house.

**Enroll:** The action after a bill has passed both houses that consolidates its amendments and any chief clerk's corrections into one text to be presented to the governor for action.

**Executive Session:** A committee meeting in which committee members vote on the disposition of a bill or other proposal. Only committee members may speak in an executive session, but members of the public may attend and listen.

**First Reading:** The formal announcement on the floor of the legislature that a bill or other proposal is being offered for consideration.

**Fiscal Estimate:** An estimate of a bill's anticipated change in appropriation authority or the fiscal liability or revenues of the state or general local government.

**Floor Debate:** Discussion of a proposal in the senate or assembly chambers. A bill under debate is referred to as being "on the floor."

**Floorperiods:** Times set aside by the session schedule during which legislators consider and debate measures in the senate and assembly chambers.

**Joint Resolution:** A proposal acted upon by both houses that makes a request, affects operations of both houses, pays tribute to public figures, or proposes a constitutional amendment. In Wisconsin, joint resolutions do not require approval by the governor.

**Joint Standing Committee:** A permanent committee, created by statute, that is composed of members from both houses of the legislature.

**Journal:** The official record of legislative business kept by each house of the legislature. Journals do not record floor debate.

**Lobbyist:** A person who is paid to represent an interest group before the legislature.

**Override:** The action of the legislature in passing a measure over the governor's veto by a vote of at least two-thirds of the members present in both houses.

**Parliamentary Procedure:** The rules, rulings, and customs under which legislatures conduct their business.

**Partial Veto:** The action of the Wisconsin governor in disapproving a part of an appropriation bill. The "part" may be a single word and is thus smaller than the "item" that is susceptible to veto in some states.

**Promulgation:** The formal process by which state agencies officially create administrative rules.

**Proposal:** A resolution, joint resolution, or bill introduced in the legislature for consideration.

**Public Hearing:** A meeting held by a committee at which members of the public, lobbyists, legislators, and state agency representatives may speak or register their views about proposals or policies under committee consideration.

**Relating Clause:** The part of the title of a bill or other proposal that identifies the general subject matter of the proposal.

**Resolution:** A proposal that makes a request or affects the operations of one house, including amending its rules, and that requires no action by the other house or the governor.

**Roll Call Vote:** A vote in which members' votes on a particular question are recorded with their names. Every roll call is printed in the house journal.

**Rules:** The detailed code of parliamentary procedure, officially adopted by each house, that prescribes the way in which the legislature does business and provides methods for settling disputes. In addition to the rules of each house, there are also joint rules that both houses agree to follow. In Wisconsin, rules carry forward from one legislature to the next until superseded by later action.

**Second Reading:** The stage at which amendments to proposals are considered on the floor.

**Section:** Can refer to a part of a statute, a bill, or an act. For example, section 13.10 is section 10 of chapter 13 of the Wisconsin Statutes. Bills and acts are also divided into numbered sections for easier reference.

**Select Committee:** See special committee definition.

**Session:** The entire 2-year period that begins with the swearing in of a new legislature in January of the odd-numbered year and ends with the swearing in of the next legislature.

**Session Laws:** The acts of the legislature compiled and published for each biennial session. The acts of the 2013 Legislature are called the 2013 session laws, officially published as the *2013 Laws of Wisconsin*.

**Session Schedule:** A schedule adopted by the legislature through passage of a joint resolution at the beginning of each session, setting the dates for floor periods and committee work periods.

**Simple Amendment:** A proposal to change some portion of a bill or other proposal by adding, deleting, or substituting language.

**Special Committee:** A committee appointed to examine a particular topic. Sometimes called a “select committee,” it automatically ceases to exist when its task is finished or when the session ends.

**Standing Committee:** A committee established by the rules of a house to examine legislation, hold hearings, and make recommendations on legislative measures. Standing committees may be abolished or created only by changing the rules.

**Statutes:** The general laws of the state that codify certain preceding legislative actions in numerically organized sections. The Wisconsin Statutes are printed every 2 years to incorporate the statutory changes made by the session laws enacted by the most recent legislature.

**Substitute Amendment:** A proposal to replace a bill or other proposal. A substitute amendment may be a complete revision of a proposal.

**Sustain:** Legislative action to uphold the governor’s veto or partial veto of a bill through refusal by more than one-third of the members in one house to vote to override the veto.

**Table:** A motion to temporarily set aside a measure and attend to other business.

**Third Reading:** The stage at which bills and certain other proposals come up for final discussion and possible passage. No amendments may be offered at this point.

**Veto:** The action taken by the governor to reject an entire bill passed by the legislature. (See also “partial veto.”)

**Veto Message:** A constitutionally required explanation of the reasons for a veto or partial veto of a bill. The governor must submit the message in writing to the bill’s house of origin.

## B. SOURCES OF LEGISLATIVE INFORMATION

Citizens who want to play an active role in the legislative process, whether advocating the passage or the defeat of a particular proposal, need up-to-date information. There are many useful resources and many are available online. Other sources include public libraries, a telephone contact, or a trip to the capital.

### Information for Current Sessions

The Legislative Reference Bureau (LRB) is a helpful source of general reference material and specific information about particular legislative proposals. The LRB research section can be contacted at [lrb.reference@legis.wi.gov](mailto:lrb.reference@legis.wi.gov) or (608) 266-0341 to determine whether a bill on a particular subject has been introduced. Copies of introduced bills are available from the online Legislative Documents Web site at <http://docs.legis.wi.gov>.

If a citizen knows a bill number, it is relatively easy to track its progress in the legislature. The Legislative Notification System at <http://notify.legis.wi.gov> allows citizens to register for e-mail updates on specific bills, or more broadly, subjects, committee activities, and authors. Bill histories are available online and updated daily during the active session.

**Bulletin of Proceedings.** The *Bulletin of the Proceedings of the Wisconsin Legislature* has existed in some form since Wisconsin became a state in 1848. Published weekly during floor-periods and occasionally during committee work periods, it indexes all bills before the legislature by subject. All session bills are listed by house of origin and bill number with the procedural history for each, showing the dates on which the bill was introduced and any amendments offered, the dates of committee action, and the dates and results of floor votes. The *Bulletin* references page numbers in the senate and assembly journals for readers who want to research house action in greater detail. Each bill entry also lists the legislators or committee that authored or sponsored the bill.

The *Bulletin* contains a list of all legislators in each house, including their committee assignments, office addresses, and telephone numbers, as well as a list of the members and officers of each committee.

Because the executive budget bill is the single most important bill passed in any session, the *Bulletin* contains special information to help research its complexity. The various items in the budget bill are listed in the subject index with their specific section numbers. After the Joint Committee on Finance offers its substitute amendment, the *Bulletin* indexes new subject matter introduced by that committee.

As a cumulative summary of the biennial session, the *Bulletin* includes a subject index to all laws passed during the session, and a list of statutory sections affected by those laws. Other features are an index and procedural history of proposed administrative rules considered in the current session and a list of registered lobbyists by name and organization represented.

Although the *Bulletin* is not available in its full published form online, every piece of it – whether an index, directory, or procedural document – is available from the Legislative Web site.

**Senate and Assembly Daily Journals.** Each house publishes a daily journal which provides a procedural history of legislative action. In Wisconsin, the journals do not record floor

debate verbatim or even in summary form. However, they do recount house action and roll call votes, and reprint messages from the governor (including veto messages) and, occasionally, other communications.

**Committee Schedule.** A person interested in a particular bill can attend the public hearing on the proposal and testify before the committee. The grid at <http://committeeschedule.legis.wisconsin.gov/> lists all upcoming committee hearings on a monthly calendar. Hearings before the Joint Committee on Finance and meetings of Legislative Council committees are also listed. The site can also be viewed in a list form and searched by committee name. The legislature also issues a printed publication called *The Weekly Schedule of Committee Activities*, a copy of which is available from the Legislative Reference Bureau. Another source of hearing information is the office of the legislator who chairs the committee.

**Daily Calendars.** Once a committee reports a bill, it may be scheduled for floor action. Daily calendars list the bills to be considered by each legislative house on a specific day and the order in which they will be heard. Persons who plan to attend floor sessions should be aware that the scheduling is approximate and may change if special motions from the floor alter the sequence of business. Calendars are available at the legislative documents Web site, or at each house's online live video site (<http://insession.legis.wisconsin.gov/>).

**Legislative Service.** The legislature offers a set of legislative publications, known as the "Legislative Service," on a paid subscription basis. The service covers the period of the biennial session and includes the daily journals, bills and their amendments, the *Weekly Schedule of Committee Activities*, the *Bulletin of the Proceedings of the Wisconsin Legislature*, and slip copies of all laws and resolutions enacted by the legislature during the 2-year period. Individuals may order the entire service or any combination of parts by contacting the Department of Administration's Document Sales division.

## Information on Existing Laws

**Wisconsin Statutes.** The Wisconsin Statutes are a cumulative codification of the general laws enacted since statehood. A new edition of the statutes has been published every 2 years since 1911. Each edition reflects all the statutory additions, deletions, and changes made by the legislature in the respective biennium. Thus, the *2011-12 Wisconsin Statutes* include all changes made to the previous edition of the statutes by laws enacted in the legislative session that began in January 2011 and ended in January 2013. The updated statutes are available online at <http://docs.legis.wi.gov/statutes/prefaces/toc>.

There is a subject index at the end of each print edition of the statutes covering general topics and detailed subheadings, and the relevant statutory section(s) are given. Following the index, there is a table of "Words and Phrases," which indicates where definitions of terms may be found in the statutes. The online subject index is at <http://docs.legis.wi.gov/statutes/index/index>.

The statutes themselves are divided into chapters, each of which covers a general subject. Chapter 343, for example, governs operators' licenses for motor vehicles. Chapters are divided into sequentially numbered sections and subsections. The first part of the section number is the chapter number, e.g., within Chapter 343, Section 343.07 covers "instruction permits" for persons wishing to learn to drive.

Each section of the statutes concludes with a history note, which lists all laws that the legislature has passed since 1971 affecting that particular section. History notes for laws passed prior to 1971 can be found in *West's Wisconsin Statutes Annotated* or the *Wisconsin Annotations*.

**Session Laws.** After bills are enacted, they are called acts and are assigned consecutive numbers beginning with the first bill in a session to be passed by the legislature and become law. All acts passed in one session become the *Laws of Wisconsin* for that session. In the case study on the enactment of 2013 Assembly Bill 297, it became 2013 Wisconsin Act 115, or the 115th bill enacted in the 2013 Legislature. Before 1983, acts of the legislature were individually called “chapters” (not to be confused with chapters of the statutes) but the bound volumes for each session have always been called *Laws of Wisconsin*.

There is an index in the back of each edition of the session laws that lists the various legislative changes for the session by topic, as well as a separate index listing the sections of the statutes that were affected by laws passed in the session.

It is important to review session laws because they may contain nonstatutory provisions, including statements of legislative intent, that are not codified in the statutes but have the effect of law. Nonstatutory provisions may include applicability or effective date clauses that explain when and to whom the law first applied.

The *Wisconsin Statutes*, *Wisconsin Annotations*, and *session laws* are available online. The LRB library also has print copies of all these references.

## Bill History

**Information Printed With a Bill.** If a person wants to know more details about the passage of a law, it is necessary to study the history of the bill. The first step is to find out what law created the language in question and track the act’s history in the bill stage. Some information is contained on the face of the bill and its companion materials. At the top of the bill there is a list of authors (the first person listed is considered the primary author) and coauthors or cosponsors if any. The date the bill was introduced and the committee to which it was referred are shown. Since 1967, the LRB has prepared a plain language analysis of the substance and effect of each bill it drafts, which is printed on the bill’s face. This analysis is designed to assist both legislators and the public in studying proposed legislation. Researchers are cautioned that the analysis describes only the original bill and may not be accurate if the bill’s original text is amended.

Beginning with the 1955 Legislature, fiscal estimates have been required for any bill that could alter state government expenditures or revenues. Since 1971, effects on general local government have also been estimated. These estimates are prepared by the appropriate agency or agencies, and they may include the preparer’s assumptions about the intent and the effect of the legislation.

The functional language of a bill is brief and direct. Bills reprint sections of the statutes that are being amended. Language being deleted is ~~struck through~~. Language being added is underscored. If a section is entirely new, the bill will state “Section \_\_\_\_ of the statutes is created to read ...” If a section is completely replaced, the bill will state “Section \_\_\_\_ of the statutes is repealed and recreated to read ...” If an entire section is to be removed, the bill



will state “Section \_\_\_\_ of the statutes is repealed.” Bills from past sessions are kept in bound volumes at the LRB. They are available at the online documents site [back to the 1995 session](#).

**Committee Records.** Although committees keep a procedural record of their work, called a committee record, they do not keep records of testimony at public hearings or committee deliberations afterward. Committees report their recommendations regarding passage of individual bills along with their roll call votes, but they do not provide explanations of the bills or the committee’s reasons for its final action. As required by law, the reports of joint survey committees, which are printed with the bill, do provide more information on fiscal and policy effects of the proposals.

The committee record lists those who appeared or registered at the public hearings. The listing includes information about the affiliation of the persons, whether they supported or opposed the bill, and whether they presented testimony. Committee records exist for bills introduced since 1951, and copies are available at the LRB on microfiche to the 1995 session and online from the 1997 session to the current session. An archive of submitted testimony is now available in the online archive back to 1989 under [Public Hearing Records](#).

Standing committees of the Wisconsin Legislature do not have permanent staff. They operate from the office of the chairperson of the committee. The committee chairperson may be able to provide copies of correspondence or testimony for current or recent bills. The Legislative Council provides a [limited archive](#) of submitted testimony on its Web site, also searchable by bill. A video archive of a hearing that occurred since 2007 may be available at [www.wiseye.org](http://www.wiseye.org).

**Legislative Council Bills.** The Legislative Council is composed of legislators and operates through the study committees it appoints, composed of legislators and public members. The committees carefully investigate various problems and present recommendations to the legislature in the form of bills introduced by the council. A council bill is easier to research than other bills because, typically, extensive explanatory notes are printed with the bill. Legislative Council notes are printed with the appropriate act in the *Laws of Wisconsin* unless the legislature significantly modified the statutory language so the notes are no longer relevant.

Council committees usually record all committee meetings on tape and provide printed summaries of testimony offered. Legislative Council minutes are available from the LRB, the Legislative Council and the State Historical Society. The Legislative Council Staff also publishes numerous information bulletins or staff briefs, as well as bill summaries and summaries of laws enacted. These are available from the Legislative Council’s Web site at <http://lc.legis.wisconsin.gov>. The LRB catalogues council publications for public use in its State Documents collection.

**Judicial Council Bills.** The Judicial Council performs a function for the judicial system similar to the work of the Legislative Council for the legislature. Its committees also develop bills with explanatory notes attached, and these notes frequently are reprinted in the statutory section history. In addition, the council prepares a cumulative volume, known as the *Wisconsin Supreme Court Orders and Rules*, which documents such actions in its branch, much as the Wisconsin Statutes compile legislative acts. Supreme Court Rules can be found

at <http://docs.legis.wisconsin.gov/misc/scr>. Selected Supreme Court Orders can be found at <http://www.wicourts.gov/scrules/orders.htm>.

Court orders may affect those chapters of the statutes that deal with court procedure and practice. A reference to “Sup. Ct. Order” in the history note to a statutory section means that the court has adopted a rule that affects that statutory section. Judicial Council notes to Supreme Court Orders are reprinted in the *Wisconsin Reports*, the volumes that publish decisions of the Wisconsin Supreme Court and selected opinions of the Court of Appeals.

Sources described as “committee notes” in *West’s Wisconsin Statutes Annotated* are likely to be the work of the Legislative Council or the Judicial Council, rather than a standing committee of the legislature.

**Budget Bill Research.** Although budget bills follow basically the same legislative process as other bills, they may seem overwhelming to the average citizen. Finding something in a budget requires patience. Budget bills are thoroughly indexed in the *Bulletin of Proceedings*, which makes research easier. In addition, a number of documents either accompany the introduction of the budget bill or summarize it at different stages.

The Department of Administration posts many documents related to the budget on its Web site at <http://www.doa.state.wi.us/Divisions/Budget-and-Finance/Biennial-Budget> and publishes 4 budget documents: the Executive Budget, Budget in Brief, Summary of Tax Exemption Devices, and the Budget Message.

The Executive Budget contains state agency requests for the biennium, the governor’s response, and the governor’s initiatives. The book is organized alphabetically by state agency name.

The Budget in Brief gives the interested citizen a summary of the budget from the governor’s point of view and provides an overview of the governor’s proposals.

The Summary of Tax Exemption Devices, prepared by the Department of Revenue, gives a rundown of tax revenues which will not be collected if certain proposed exemptions affecting income, sales and other taxes are enacted.

The Budget Message is the speech the governor delivers at a joint session of the legislature describing the overall effects of the budget bill and highlighting gubernatorial initiatives for the biennium. The message is also printed in the journal of the house in which the budget bill originates. An online transcript or video version is available at the governor’s Web site.

After the budget bill is introduced, the Legislative Fiscal Bureau (LFB) publishes summaries of the budget bill at various stages during legislative consideration. The first summary describes the proposed executive bill and its effect on state finances, as well as its impact on individual agencies. After the Joint Committee on Finance offers its substitute amendment, the LFB publishes another volume that compares the governor’s proposals with those of the joint finance committee. The LFB also publishes summaries of amendments to the budget bill in the 2 houses. When the bill has been enacted, the bureau publishes a summary of the budget act which includes prior information, adds the changes made on the floor of each house, and provides material on the effects of the governor’s partial vetoes.

The LFB publishes a number of informational papers that describe many state government programs, how they work, and how much money is spent on them. These and the other budget materials just described are available at the LFB Web site and in the collection of the LRB library.

**Drafting Records.** LRB attorneys who draft the bills introduced in the Wisconsin Legislature keep a record of the drafting process for each bill. Drafting records, dating back to 1927, are filed at the LRB. They are catalogued by year and act (or chapter) number if a bill was enacted or by year and bill number if the bill did not pass. As an example, from the case study previously described, the drafting record for 2013 Assembly Bill 297 is filed as 2013 Wisconsin Act 115. Its companion bill, which did not pass, is filed as 2013 Senate Bill 317. Drafting records are never filed under statutory section numbers, so a person researching a particular section of the statutes must determine the act or chapter number of the law that created the language being considered.

Drafting records for joint resolutions and resolutions are filed under the number given them at introduction and not the enrolled number assigned to them after passage. For example, the proposal to amend the state constitution to permit creation of a state lottery was published as Enrolled Joint Resolution 35 in the 1985 Laws of Wisconsin after it passed the legislature on first consideration. The drafting record, however, is filed as 1985 Senate Joint Resolution 1, the number given at introduction.

A drafting record is a file that may contain documents and memoranda created by or given to the legislative drafting attorney in the process of drafting a bill, joint resolution, or resolution and subsequent amendments. At minimum, this file will contain a “drafting request” to the LRB, indicating who requested that a bill or resolution be prepared for introduction, plus at least one draft of the bill, and a file copy of the bill as it was introduced. Each amendment to the bill that is formally introduced in the legislature will have the same documentation.

Beyond these minimal documents, individual files vary considerably in content. Drafting instructions may include correspondence (usually by e-mail) or model bills that the requestor turned over to the drafter. Generally, any written materials produced by the drafting attorney will also be included. The files do not contain anything not in the possession of the attorney at the time the bill was drafted. Thus, copies of correspondence received or written by the legislator, but not submitted to the attorney during the drafting process, would not be part of the file. Drafting records from past sessions are available on microfiche at the LRB, Marquette University Law Library, UW-Milwaukee Law Library, the State Law Library, and the University of Wisconsin Law School Library. Drafting records from 1999 to the present are available online at [http://docs.legis.wi.gov/drafting\\_files](http://docs.legis.wi.gov/drafting_files). Drafting records of proposals that have been introduced in the current legislative session can be reviewed at the LRB or sent by e-mail.

**Administrative Rules.** After a law is enacted, its administration and enforcement often falls to a particular agency or unit of government. It may be a state agency, the courts, law enforcement agencies, or local governments. Many laws require state agencies to write administrative rules, which have the effect of law. Rules tend to deal with material too detailed or complex for the legislature to cover in the law itself. For example, clean air and clean water laws are generally enforced by the Department of Natural Resources. The Department of Safety and Professional Services enforces state building codes, and the Department of Workforce Development oversees unemployment and workers’ compensation and fair employment. The legislature may not want to legislate technical standards for apartments or septic tanks or the procedure by which complaints are filed. It can, however, review the rules

that the state agencies propose under authority of the general law and may object to those rules if they fail to meet the legislative policy.

Once promulgated, a particular rule becomes part of the Administrative Code, much as laws are incorporated into the statutes. The rules, which are published by the LRB, are indexed by agency and, like the statutes, are organized into chapters, sections, and subsections. Chapter numbers in the administrative code begin with a 2- to 5-letter prefix that identifies the name of the department. Department of Natural Resources rules begin with "NR," and those of the Department of Agriculture, Trade and Consumer Protection with "ATCP." Government documents librarians, the LRB, or the agency that wrote the rule can help the person researching the Administrative Code. Chapters of administrative rules may be accessed at <http://docs.legis.wi.gov/code/prefaces/toc>. Beginning in 2015, the Administrative Code will be electronic only.

**The Wisconsin Blue Book.** The LRB compiles the *Blue Book* on a biennial basis. This encyclopedia of Wisconsin government profiles and describes the 3 branches of state government, provides biographical information on current state officials, and has more than 350 pages of statistical information on Wisconsin's government, politics, economy, and other topics.

The first section of the book contains the biographies of the state's constitutional executive officers, supreme court justices, members of the U.S. Congress from Wisconsin, and state legislators, along with photographs of these officials. The section on the legislative branch gives a profile of that branch, outlines the legislative process, provides a summary of the recently completed legislative session, and describes legislative committees and service agencies.

The *Blue Book* is published in the fall of each odd-numbered year and is available at <http://legis.wisconsin.gov/lrb/pubs/bluebook.htm> as well as at public and school libraries throughout the state. Individual copies are available for purchase at cost from Document Sales and Distribution. Legislators also receive copies of the book, which they distribute upon request to their constituents at no charge as long as their supplies last.

**Other Sources of Information.** In addition to legislative committees, special study committees and task forces may be created by the governor or a state agency head. Governor's task forces or councils have made recommendations on reorganization of state government, revamping the state's income and inheritance tax laws, welfare reform, and many other topics. The legislature will sometimes ask a state agency to study a new program or develop a pilot program and report on the results. State agencies routinely publish biennial reports and reports on some of their programs. Major public and academic libraries, as well as the LRB, will have these reports. If the report is available online, the [LRB catalog](#) will usually provide a direct link to the document.

Newspapers are also an important source of information. They may contain accounts of committee hearings, what was said on the floor of the legislature, or statements made by the governor in signing a bill. Occasionally there will be press releases, letters to the editor, or short editorials by the bill's author, supporters, or opponents. Many state newspapers are available in public libraries with past editions available electronically or on microfilm. The LRB has an extensive clippings collection, which is available electronically within the legislative network and can be used at the kiosks in the library.



The nonprofit station WisconsinEye keeps a digital video archive of floor sessions and selected committee hearings, as well as other public affairs programming associated with the State Legislature. Recordings back to 2007 can be found at [www.wiseye.org](http://www.wiseye.org).

### C. SELECTED RESOURCES

The bibliography for the original 1993 publication can be found at <http://legis.wisconsin.gov/lrb/pubs/feature/legispro.pdf>, pages 95-96.

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# Selected Legislative Reference Bureau Publications

These and other LRB publications are available at [www.legis.state.wi.us/lrb/pubs](http://www.legis.state.wi.us/lrb/pubs)

## Research Bulletins

- RB-12-2 Wisconsin Legislative District Almanac. August 2012  
RB-14-1 Summary of the 2013-2014 Wisconsin Legislative Session. May 2014  
RB-14-2 The Legislative Process in Wisconsin. December 2014

## Informational Bulletins

- IB-11-1 Guidelines for Adjusting Municipal Wards Following the 2010 Federal Census. March 2011  
IB-12-1 Wisconsin's Role in Electing the President. March 2012  
IB-12-2 The Evolution of Legalized Gambling in Wisconsin. November 2012  
IB-13-1 Study Guide to the 2013-14 Wisconsin Blue Book. September 2013  
IB-13-2 Inside the 2013-2014 Wisconsin Blue Book. September 2013  
IB-14-1 Tenure, Turnover, and Reelection in the Wisconsin Legislature, 1940 – 2012. May 2014  
IB-14-2 Special and Extraordinary Sessions of the Wisconsin Legislature. August 2014  
IB-14-3 2015 Legislative Session Fiscal Estimate Manual. December 2014  
IB-14-4 Ask the LRB. December 2014

## Wisconsin Briefs

- Brief 12-2 Executive Vetoes of Bills Passed by the 2011 Wisconsin Legislature from January 11, 2011, to April 20, 2012 (Except the 2011 Executive Budget Bill). April 2012  
Brief 12-3 Concealed Carry and Firearms Laws in Wisconsin. May 2012  
Brief 12-5 Executive Budget Bills Enacted by the Wisconsin Legislature, 1931-2011. July 2012  
Brief 12-8 Wisconsin Farm to School. October 2012  
Brief 12-10 Genetically Modified Crops. December 2012  
Brief 13-1 Brief Biographies 2013 Wisconsin Officers. January 2013  
Brief 13-2 Profile of the 2013 Wisconsin Legislature, January 7, 2013. January 2013  
Brief 13-3 Wisconsin Women Legislators – A Historical List. January 2013  
Brief 13-4 Constitutional Amendment Given "First Consideration" Approval by the 2011 Wisconsin Legislature. January 2013  
Brief 13-5 Statutory Misdemeanors in Wisconsin. April 2013  
Brief 13-6 Executive Partial Veto of Assembly Bill 40 Executive Budget Bill Passed by the 2013 Wisconsin Legislature (2013 Wisconsin Act 20). July 2013  
Brief 13-7 Wetlands of Wisconsin. September 2013  
Brief 13-8 Researching Legislative History in Wisconsin. November 2013  
Brief 14-1 Wisconsin Citizens Who Served in the United States Cabinet. January 2014  
Brief 14-2 Online Privacy – Social Media, E-Mail Warrant Search, and Customer Data. March 2014  
Brief 14-3 Voice Voting in the Wisconsin Legislature. April 2014  
Brief 14-4 State Restrictions on Abortion: Admitting Privileges at Issue. April 2014  
Brief 14-5 Executive Vetoes of Bills Passed by the 2013 Wisconsin Legislature (Except the 2013 Executive Budget Bill). May 2014  
Brief 14-6 Candidates: Primary Election, August 12, 2014. June 2014  
Brief 14-7 Heroin Resurgence. July 2014  
Brief 14-8 Marijuana Regulation in the States. September 2014  
Brief 14-9 Constitutional Amendment to be Considered by the Wisconsin Voters, November 4, 2014. September 2014  
Brief 14-10 Candidates: General Election, November 4, 2014. September 2014  
Brief 14-11 School Choice Options in Wisconsin. September 2014  
Brief 14-12 Genetically Engineered Crops. November 2014  
Brief 14-13 State Agencies, Boards, Commissions, or Councils Created, Repealed, or Revised by the 2013 Legislature: 2013 Wisconsin Acts 1-380. November 2014  
Brief 14-14 Salaries of State Elected Officials, Effective January 2015. November 2014  
Brief 14-15 Wisconsin State Officers. November 2014  
Brief 14-16 Prohibition on Residency Qualifications for Municipal Employment. December 2014  
Brief 14-17 Peer-to-Peer Ridesharing. December 2014

## Research Tutorials

- Researching Administrative Code – 6/27/14 (6:05), at: <http://youtu.be/Z0eU2aD452Y>  
Researching Chapter 20 Appropriations – 8/8/13 (4:47), at: <http://youtu.be/ir6mVPFPyaY>  
Google Books – 7/1/13 (3:32), at: <http://youtu.be/cHhQ7ryW0Kc>  
Checking the Status of Legislative Proposals – 5/30/13 (1:37), at: <http://youtu.be/GGp0wAYbRjw>  
Navigating the Budget Bill – 5/30/13 (4:23), at: <http://youtu.be/iAPNeNmbWx4>

## Oral Histories

- David Helbach – 5/10/2012 (1:16:13), at: <http://www.youtube.com/watch?v=VnH6mGINbiQ>  
Norman Anderson – 5/17/2012 (1:08:59), at: <http://www.youtube.com/watch?v=k3QJYcEnuac>  
Barbara Ulichny – 7/17/2012 (1:37:47), at: <https://www.youtube.com/watch?v=78aemh6BXOo>  
Margaret Farrow – 7/18/2014 (2:13:56), at: <https://www.youtube.com/watch?v=TZwGB4100Wo>

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