

Governing Wisconsin

From the Wisconsin Legislative Reference Bureau



Teacher's Guide

Essays

Study Questions

Selected Lesson Plans

Mini Unit

Glossary



Fall 2008

ISBN 978-0-9752820-8-3

© 2008 Wisconsin Legislative Reference Bureau. This publication is covered by the Creative Commons “Attribution 3.0 United States” license (see <http://creativecommons.org/licenses/by/3.0/us/>). The publication may be shared or remixed in its entirety as long as the Wisconsin Legislative Reference Bureau is credited, a link to the Bureau’s Web page is provided, and no charge is imposed.

Wisconsin Legislative Reference Bureau
One East Main Street, Suite 200
Madison WI 53701-2037
(608) 266-3561
<http://www.legis.wisconsin.gov/lrb/>

Contents

Preface vii

Acknowledgements viii

Introduction ix

Governing Wisconsin Issues Published x

I. The Principles of a Republic

Federalism*

Separation of Powers

Due Process

Citizenship

II. Establishing a State Government

Northwest Ordinances

Wisconsin Idea

American Indian Powers

Wisconsin's Constitutional Conventions

Amending the Wisconsin Constitution

III. Legislative Branch

Bicameralism

Legislative Rules Part I

Legislative Rules Part II

Redistricting

Who Are Wisconsin Legislators?

IV. Executive Branch

Governor's Veto

Administrative Rules

V. The Judiciary

State Court System*

Juries

Judicial Review

VI. State Government in Action

- Taxes
- Political Parties*
- Lobbying*
- Referenda and Recall
- The Open Meetings Law
- Public Records Law
- Special Purpose Districts
- Counties, Cities, Villages, Towns
- Enacting the State Budget Bill

VII. Mini unit: Who Should Pay? Investigating the Creation of Miller Park

VIII. Glossary

*Includes lesson plan

Preface

Civics education is a cornerstone of the American public education system. Although the subject seems to have atrophied in some curriculums in recent decades, it now appears to be enjoying recognition of its fundamental importance. A democracy gives real power to its citizens, who exercise this power primarily through the ballot box. The people must be informed of what government does, how it performs these duties, and the citizen's role in government. Every person has a stake in improving the knowledge of all citizens who will vote and make the critical decisions affecting our democracy.

The Legislative Reference Bureau began publishing *Governing Wisconsin* in 2005 to aid teachers of civics education in this state. Too often, classroom materials prepared for civics education confuse state legislatures with Congress or ignore state government altogether. The *Governing Wisconsin* series presents state and federal governments in their proper perspective and portrays realistically how the various parts of state government work together. The essays that make up the series are specific to Wisconsin.

Each essay in this guide was written by an LRB employee. All of these writers have years of experience serving the Wisconsin Legislature and the public in jobs where they help people understand Wisconsin government, assist in public policy development, explain legislative procedure, and perform related tasks. We undertook this project with the ideals of American government foremost in mind and with a concern for the continuation and improvement of the government that best protects democracy and human rights.

Teachers applauded these two-page essays and asked for additional materials, which we supplied in the form of study questions with suggested answers. Because of the importance of developing critical thinking skills in the context of civics education, for each essay we have included six study questions that follow the traditional six-level taxonomy of educational objectives posited by Bloom, et al.

We have now added a glossary of special terms and some model lesson plans. All of these materials are compiled into this teacher's guide, which we hope will encourage thoughtful participation in our government.

Steve Miller, Chief
Wisconsin Legislative Reference Bureau
Fall 2008

Acknowledgements

We wish to acknowledge the contributions of Paula McAvoy, who worked at the LRB as a Bonnie Reese intern in 2007. Paula's knowledge of civics education and her efforts raised the educational value of the *Governing Wisconsin* series and the quality of this teacher's guide. We also owe a debt of thanks to the Wisconsin Women in Government organization, which funds the Bonnie Reese Internship.

Beth Ratway at the Wisconsin Department of Public Instruction helped launch the series *Governing Wisconsin*. As a curriculum expert, Beth's guidance helped us with the series and the teacher's guide.

Wendy Jackson, Series Editor
Wisconsin Legislative Reference Bureau
Fall 2008

Introduction

The *Governing Wisconsin* series provides a resource for teachers who wish to include more about the state of Wisconsin in their social studies classes. It is not meant to be a comprehensive curriculum, but rather a reference for teachers in the form of stand-alone readings that can supplement civics, history, and economics courses. It is our hope that by providing teachers with sophisticated content knowledge about our state governance, they will be better equipped to infuse these ideas into their courses and provide students with a more nuanced understanding of the role the state plays in their lives.

Each civics education subject included in this guide includes a two-page essay written by an expert in the Legislative Reference Bureau and a set of study questions with answers. This guide also contains a master glossary.

Teachers are encouraged to use the readings in a number of ways. The papers are written for an advanced high school reader. Teachers can use the readings to brush up on the concepts and present the information in a lecture, to create an activity, or, when appropriate, to copy for the class as a supplemental reading. The study questions and their answers help to clarify terms and assess students' understanding. The question worksheets can be used as a student activity following a lecture, activity, or reading. The answer sheet can also be used as a third page of information that would act more like a "frequently asked questions" page that helps students clarify the terms and gain deeper understanding.

In addition to the readings, this guide contains a mini unit entitled, "Who Should Pay? Investigating the Creation of Miller Park." By engaging in a series of discussion-based activities, students will consider multiple policy options regarding the funding for Miller Park, home of the Milwaukee Brewers. The unit was designed for use in high school civics and economics classes and introduces students to several *Governing Wisconsin* concepts, including taxation, special purpose districts, referenda and recall, and the role of the state legislature.

Governing Wisconsin Issues Published August 2005–November 2008

Issue No.	Title
1	Bicameralism: The Two Houses of the Legislature and How They Differ
2	The Role of Political Parties in Wisconsin Government
3	Redistricting: Why Legislative Districts Are Redrawn, How It Is Done, and By Whom
4	The State Court System: A Road Map Through Wisconsin’s Judicial System
5	The Governor’s Veto Power: To What Extent Can the Governor Reject Legislation
6	Counties, Cities, Villages, and Towns: Forms of Local Government and Their Functions
7	The “Separation of Powers” Doctrine: Why Do We Separate the Powers of Government?
8	Lobbying in Wisconsin: What do Lobbyists Do and How Are They Regulated in Wisconsin?
9	Federalism
10	Juries in Wisconsin: An Overview
11	American Indian Powers of Governance: The Intersection of Federal, Tribal, and State Authority
12	Special Purpose Districts: Types, Powers, and Duties
13	Referenda and Recall: Letting the People Decide
14	The Northwest Ordinances: How the Act Influenced the Development of the Midwestern States
15	The Wisconsin Idea
16	An Informed Public: Part One—The Open Meetings Law
17	An Informed Public: Part Two—The Public Records Law
18	Due Process of Law
19	Legislative Rules: Part One—A Brief History of Parliamentary Law
20	Legislative Rules: Part Two—Wisconsin Legislative Rules
21	Administrative Rules in Wisconsin
22	Wisconsin Taxes
23	Wisconsin’s Constitutional Conventions
24	Citizenship
25	Enacting the State Budget Bill
26	Amending the Wisconsin Constitution
27	Judicial Review
28	Who Are Wisconsin Legislators?

www.legis.wisconsin.gov/lrb/gw/index.htm

Part I

Principles of a Republic

Federalism

Separation of Powers

Due Process

Citizenship





Federalism

FEDERALISM IN THE DESIGN OF THE AMERICAN SYSTEM OF GOVERNMENT

Federalism is an institutional arrangement in which political authority is divided among different levels of government, each with distinct or overlapping powers. In the United States, federalism can be seen in the division of political power between the federal government—consisting of Congress, the president, and the Supreme Court—and 50 individual state governments.

Many democratic countries around the world, such as Great Britain, have some form of federalism, but this is usually only because their national governments have enacted laws to grant powers to local governments. At any time, simply by enacting new laws, these national governments could take back all of the delegated powers. In the U.S., in contrast, federalism is a constitutional doctrine. The federal government is granted certain powers under the Constitution, and all other powers, as reaffirmed by the Tenth Amendment, are “reserved to the States.” As a result, in the U.S., the federal government cannot simply enact new laws to change the allocation of political authority. At least in theory, this allocation can be altered only by amending the Constitution.

The design of the American system of government includes federalist elements because of the historical situation in which the founders were operating in the late 18th

century and philosophical arguments about the best way to deal with the problem of tyranny. The historical situation was the failed Articles of Confederation, under which the federal government lacked authority to regulate commerce and raise taxes to maintain an army. State governments simply had too much power. So the founders drafted a constitution in which the federal government was granted power to regulate commerce among the states—the so-called commerce clause—and to maintain an army.

The founders were also concerned with designing a government that could combat tyranny. As is well known, and seen in authoritative commentary on the Constitution, such as the Federalist Papers, the founders wished to disburse political power and make its exercise, even where disbursed, cumbersome. The founders did not wish to make the functioning of the federal government near to impossible, as happened under the Articles of Confederation. Instead, the founders granted the federal government specific powers and reserved all others to the states. In this way, the centralization and abuse of political power, which could result when factions opposed to public interest held power, would be made more difficult. Federalism was thus envisioned as one among many weapons against tyranny.



THE EVOLUTION OF FEDERALISM IN THE UNITED STATES

Even though federalism is embedded in the Constitution, the allocation of political power between the federal government and the states has not remained constant. Throughout American history, the federal government has sought to increase its political power, while states have battled to preserve their political powers, and the courts have been left with the highly charged task of sorting out the constitutional authority of each level of government.

In *McCulloch v. Maryland* (1819), for example, the Supreme Court held that the powers of the federal government are not limited to those expressly enumerated in the Constitution, but also include those “necessary and proper” to carrying out the enumerated powers. Similarly, in *Gibbons v. Ogden* (1824), the Court adopted a broad conception of congressional power under the commerce clause, drastically increasing the scope of federal government authority over the economy. Together, these decisions laid the juridical foundation for an expansive conception of federal government power.

The expansion of federal government power throughout the 19th century and up to President Franklin Roosevelt’s New Deal occurred in fits and starts. The Civil War consolidated political power in Washington, D.C., and in the war’s aftermath the federal government

assumed new powers over the economy and even in social policy areas, such as the provision of pensions to Civil War veterans. Many of these expansions of federal government authority, especially involving the regulation of business practices, were initially resisted by the courts. But by the late 1930s, the courts had come to accept that the federal government could regulate essentially all economic and related activity throughout the nation and provide virtually unlimited social services based on the commerce clause. President Lyndon Johnson's Great Society programs—food stamps, Medicare, and Medicaid—extended the economic and social programs of the New Deal. By the late 20th century, federalism was no longer an effective constitutional impediment to the exercise of federal government power in the economy and society.

A NOTE ON WISCONSIN AND FEDERALISM

Wisconsin has figured prominently in the history of American federalism. One of the many attributes of a federal system is that policy innovation is more likely to occur. State governments can each be a laboratory, as Justice Louis Brandeis once observed, and pursue novel public policy solutions to political, economic, or social problems without imposing these solutions on the entire nation. In this way, public policies can first be tested on smaller populations and, if they work, Congress can then enact legislation to have the policies apply to all states.

In this regard, Wisconsin has served as the laboratory for many of the major social, labor, and economic public policies of the 20th century, having enacted early versions of laws providing for

income taxes, workers' compensation, civil service, direct party primaries, limiting working hours for women and children, collective bargaining, workplace safety, and unemployment compensation. Much of this legislation served as the model for subsequent national legislation. Indeed, it is no surprise that President Theodore Roosevelt once referred to Wisconsin as "the laboratory of democracy."

THE NEW FEDERALISM

In his first inaugural address, in 1981, President Ronald Reagan described the dire economic problems facing the United States and announced, "In the present crisis, government is not the solution to our problem." Fifteen years later, in his 1996 State of the Union address, President William Clinton surveyed his first term in office, observing: "We have worked to give the American people a smaller, less bureaucratic government in Washington." He added, "The era of big government is over." Both men had previously served as state governors and their words reflected that the balance of political power in the U.S. had tipped a bit too far in the direction of the federal government, to the detriment of state governments. In this regard, both tapped into what has come to be known as the New Federalism—that is, the political and legal movement to transfer certain powers and responsibilities that were assumed by the federal government in the 20th century back to the states.

Under Chief Justice William Rehnquist, the Supreme Court began to blaze a new trail in federalism jurisprudence, reflecting the New Federalism. In *United States v. Lopez* (1995), for instance, the Court invalidated a federal law that prohibited the possession of guns in

in and around school grounds. This was the first decision since 1937 to hold that Congress had exceeded its commerce clause powers. The Court continued in this new direction with *United States v. Morrison* (2000), ruling unconstitutional the civil remedies provisions of the 1994 Violence against Women Act on the grounds that neither the Fourteenth Amendment nor the commerce clause authorized Congress to enact the provisions. While the Court has not been entirely consistent in its New Federalism jurisprudence, it has nonetheless demonstrated a newfound willingness to delimit federal government authority and to carve out protected spheres of state political authority under the Constitution.

THE FUTURE OF FEDERALISM IN WISCONSIN

Federalism is alive and well in the United States. That the Supreme Court has begun to consider seriously limits on federal government authority under the Constitution can only mean that the state governments may have more leeway and autonomy in devising policy solutions to address social, political, and economic problems within their borders. Even in those public policy areas in which the federal government has clear constitutional authority to act, it is increasingly providing states with assistance in the form of block grants. Given Wisconsin's long history of policy innovation and willingness to serve as a "laboratory of democracy," Wisconsin is well-positioned to respond legislatively in the New Federalism era.

By Richard Champagne,
Senior Legislative Attorney
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 9, December 2005

Governing Wisconsin: "Federalism"

Study Questions

1	Why did the Articles of Confederation fail?	
2	How does federalism protect against tyranny?	
3	Briefly explain a historical or current event that illustrates an instance in which the states and the federal government struggled over the distribution of power.	
4	The No Child Left Behind Act (NCLB) outlines standards-based educational reforms for public schools in all states. Is NCLB an example of New Federalism?	
5	How will the emergence of a dominant international economy affect the relationship between the states and the federal government?	
6	How well does federalism function as an arrangement for sharing powers? Or does it work better as a method for transferring power from state to federal government?	

Governing Wisconsin: "Federalism"

Study Questions in the Cognitive Domain

1	Why did the Articles of Confederation fail?	Under the Articles of Confederation, the states had too much power. The federal government could not regulate commerce, raise taxes, or maintain an army.	Cognition
2	How does federalism protect against tyranny?	A tyrant oppressively controls all state power. Federalism protects against tyranny by distributing power between the states and the federal government and dividing the federal government into three branches, which check each other against taking power from the others.	Comprehension
3	Briefly explain a historical or current event that illustrates an instance in which the states and the federal government struggled over the distribution of power.	Many events can go here. Examples include the Civil War and slavery, women's suffrage, the New Deal, abortion rights, No Child Left Behind, the death penalty, definition-of-marriage amendments, legalization of marijuana or peyote, and immigration laws.	Application
4	The No Child Left Behind Act (NCLB) outlines standards-based educational reforms for public schools in all states. Is NCLB an example of New Federalism?	No. New Federalism is a movement toward reducing federal regulation on the affairs of state governments. NCLB is the largest federal educational reform law in the history of the United States.	Analysis
5	How will the emergence of a dominant international economy affect the relationship between the states and the federal government?	States will lose power to the federal government, as they have in the past. For example, states lost power over monetary policy and maintaining a military force. States will have less flexibility to experiment as Congress forces states to have more uniform laws.	Synthesis
6	How well does federalism function as an arrangement for sharing powers? Or does it work better as a method for transferring power from state to federal government?	Initially, federalism served as a political compromise to transfer limited power from the sovereign states to a central federal government. In modern times, federalism forms the framework for continued transfer of power from the states.	Evaluation

Lesson Plan: Federalism

Note: This lesson is most appropriate for high school classrooms.

IDENTIFICATION

Mark each of the following true or false. If false, correct the underlined portion of the sentence to make it true.

1. The United States Constitution was the first document to create a union between the original thirteen states. (True/False _____)
2. The Federalist Papers are a collection of essays written by the framers of the U.S. Constitution advocating for its ratification. These papers are often used as guides for constitutional interpretation. (True/False _____)
3. The First Amendment reads: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved for the States respectively, or to the people.” (True/False _____)
4. Medicare is a federally funded health insurance program provided to United States citizens aged 65 and older. (True/False _____)

COMPREHENSION

Why did the Articles of Confederation fail?	
How does federalism protect against tyranny?	
What is the aim of New Federalism?	
What current federal laws were first “tested” in Wisconsin’s “democratic laboratory”?	

INTERPRETATION/ANALYSIS

Commerce clause in action:

Article I, section 8, clause 3 of the [Constitution](#) empowers Congress “to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

Supreme Court Case: *Dean Milk Co. v Madison* (1951)

Facts of the case: A city ordinance in Madison prohibited the sale of milk that was not bottled and pasteurized at approved facilities within five miles of the city center. Dean Milk, a milk distribution company in Illinois, was denied a permit to sell in Madison because its facilities were not in compliance with the city ordinance. Dean sued the city of Madison claiming that the law violated the commerce clause and unduly interfered with interstate commerce. The city claimed that the law was necessary to insure public health, although Dane County dairies exported their milk throughout the state and into Illinois.

Discussion:

1. Did Madison’s city ordinance violate the commerce clause? Explain the arguments for both sides.
2. You be the judge. How would you/your group rule? Why?

The actual ruling:

The Supreme Court ruled ____ to ____ in favor of _____.

For discussion: This ruling illustrates how the courts are used to clarify the balance of power between the states and the federal government.

What do you think?

- What are the benefits of requiring states to trade freely among each other?
- Might there be benefits to allowing states to protect certain industries?
- When might a state be allowed to stop the sale of certain products from other states?
- Imagine that the Wisconsin legislature passed the following law designed to reduce carbon emissions: (1) Beginning on January 1 of the next year, only hybrid cars may be sold within state borders. (2) Wisconsin citizens may purchase other cars from outside the state but will be charged an annual carbon tax of \$500 to drive a non-hybrid car. (3) Cars purchased before January 1 of the next year would not be affected. What would be the positive and negative effects of the law? Would this law violate the commerce clause?

Positive effects

Negative effects

Is it constitutional?

Lesson Plan: Federalism

Note: This lesson is most appropriate for high school classrooms.

IDENTIFICATION

Mark each of the following true or false. If false, correct the underlined portion of the sentence to make it true.

1. The United States Constitution was the first document to create a union between the original thirteen states. (*False, the Articles of Confederation*)
2. The Federalist Papers are a collection of essays written by the framers of the U.S. Constitution advocating for its ratification. These papers are often used as guides for constitutional interpretation. (*True*)
3. The First Amendment reads: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved for the States respectively, or to the people.” (*False, the Tenth Amendment*)
4. Medicare is a federally funded health insurance program provided to United States citizens aged 65 and older. (*True*)

COMPREHENSION

Why did the Articles of Confederation fail?	<i>Under the Articles of Confederation, the states had too much power. The federal government could not regulate commerce, raise taxes, maintain an army.</i>
How does federalism protect against tyranny?	<i>Tyranny is when all state power is in the hands of a single, oppressive ruler. Federalism protects against tyranny by distributing power between the states and the federal government and dividing the federal government into three branches.</i>
What is the aim of New Federalism?	<i>To return more power to the states/decrease federal power.</i>
What current federal laws were first “tested” in Wisconsin’s “democratic laboratory”?	<i>Wisconsin was one of the first states to pass laws for income tax, worker’s compensation, civil service, limited working hours, collective bargaining, workplace safety, and unemployment compensation.</i>

INTERPRETATION/ANALYSIS

Commerce clause in action:

Article I, section 8, clause 3 of the [Constitution](#) empowers Congress “to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

Supreme Court Case: *Dean Milk Co. v Madison* (1951)

Facts of the case: A city ordinance in Madison prohibited the sale of milk that was not bottled and pasteurized at approved facilities within five miles of the city center. Dean Milk, a milk distribution company in Illinois, was denied a permit to sell in Madison because its facilities were not in compliance with the city ordinance. Dean sued the city of Madison claiming that the law violated the commerce clause and unduly interfered with interstate commerce. The city claimed that the law was necessary to insure public health, although Dane County dairies exported their milk throughout the state and into Illinois.

Discussion:

1. Did Madison’s city ordinance violate the commerce clause? Explain the arguments for both sides.
2. You be the judge. How would you/your group rule? Why?

Once the class has made its decision about the case and discussed the arguments for both sides, share the Supreme Court’s decision.

The actual ruling:

The Supreme Court ruled 6 to 3 in favor of *Dean*. *The Supreme Court decided that the city ordinance was in violation of the commerce clause because Madison could not show that the ordinance was indeed necessary to protect public health. There were reasonable alternatives to the policy that insured milk sold within city limits would be healthy and that did not interfere with competition from non-local sellers. From the opinion: "To permit Madison to adopt a regulation not essential for the protection of local health interest and placing a discriminatory burden on interstate commerce would invite a multiplication of preferential trade areas destructive of the very purpose of the Commerce Clause."*

More facts from the Supreme Court decision:

1. At the time of the ordinance, there were 5,600 dairy farms in Dane County, which produced ten times the amount of milk needed for Madison.
2. Bulk milk from Dane County was sold to distant areas, including Chicago.
3. At the time of the trial the Madison milk shed did not meet recommended federal Grade “A” standards.
4. Five local processors met the requirements to sell milk within Madison city limits.
5. Dean Milk gathered milk from 950 farms in northern Illinois and southern Wisconsin, but none within 25 miles of Madison.
6. Dean operated two pasteurization plants that were 65 and 85 miles from Madison.
7. Dean’s milk was licensed and inspected by public health authorities in Chicago and had met the recommended federal Grade “A” standards.

For discussion: This ruling illustrates how the courts are used to clarify the balance of power between the states and the federal government.

What do you think?

- What are the benefits of requiring states to trade freely among each other? *Competition keeps prices lower across all states and allows for more economic growth overall; free trade results in product diversity; labor can freely move across state borders. States can specialize in certain products (example: Wisconsin becomes “America’s Dairyland”) rather than trying to produce everything themselves, which improves efficiency (comparative advantage).*
- Might there be benefits to allowing states to protect certain industries? *States could protect jobs in certain industries. Carbon emissions would be reduced if people were forced to eat and produce locally.*
- When might a state be allowed to stop the sale of certain products from other states? *If there was legitimate danger to public health, such as during an outbreak of mad-cow disease or a flu epidemic, states would be allowed to stop trade with contaminated areas.*
- Imagine that the Wisconsin legislature passed the following law designed to reduce carbon emissions: (1) Beginning on January 1 of the next year, only hybrid cars may be sold within state borders. (2) Wisconsin citizens may purchase other cars from outside the state but will be charged an annual carbon tax of \$500 to drive a non-hybrid car. (3) Cars purchased before the January 1 of the next year would not be affected. What would be the positive and negative effects of the law? Would this law violate the commerce clause?

Possible answers:

Positive effects. Car manufacturers that do not currently make hybrids might offer a hybrid option. Carbon emissions would go down over time. Other states might follow by implementing a similar law and then the cost of hybrid cars would go down as demand goes up, and further reduce emissions. People who want a non-hybrid car will likely buy before next January causing a quick rush on new cars, which could drive down the price of used cars.

Negative effects. Wisconsin residents would have fewer car choices. People who can afford to go out of state and pay the tax will do so, improving the economies of neighboring states—although Wisconsin residents would still pay a “use tax” (see *Governing Wisconsin: “Wisconsin Taxes”*) when they register their car, so the state would not really lose sale tax. Hybrid cars are often more expensive, so this law would make it harder for people to buy new cars (could also be a positive). Some car businesses might leave the state, which could mean fewer jobs. It could be that other alternative fuels are, in fact, better for the environment than hybrid engines, this law might interfere with research and development and availability of other options.

Is it constitutional? *Would the law be a violation of the commerce clause?*

It is always difficult to predict how a court will treat commerce clause cases, especially the so-called dormant commerce clause that prevents states from interfering with interstate commerce. If the court focuses on the restriction of trade aspects of this policy, it could find that the law does violate the commerce clause because automobile dealerships or franchises that are located

in Wisconsin would be forced to close if they did not sell hybrids, while such dealerships and franchises that operated across state lines could continue to market and sell their non-hybrid cars in Wisconsin. The result of this law might be not to reduce carbon emissions, but only to restrict the physical sale of non-hybrid cars in Wisconsin. If Wisconsin were truly concerned with the health benefits from reduced carbon emissions it would restrict the operation of non-hybrid cars in Wisconsin starting at a certain time. As an alternative, it could require enhanced pollution control devices on cars and institute annual vehicle inspections to make sure the pollution equipment is functioning properly. In other words, there are other ways to ensure the same goal with any sort of restriction on commerce.

On the other hand, a court might focus only on the health benefits of the law and find that this minimal restriction on commerce will redound to the improved health of Wisconsin residents. The restriction on commerce is relatively minor. Non-hybrid cars can continue to operate in Wisconsin and Wisconsin residents can continue to purchase these cars across state lines. Rather than institute a complete ban on non-hybrids, this law adopts a middle-ground position on reducing carbon emissions.

If I had to predict: I think the court would find it unconstitutional.

Legal opinion written by Richard Champagne, Senior Legislative Attorney, Legislative Reference Bureau, January 2008.

Lesson Plan: Federalism and the Constitution

Note: This lesson is most appropriate for high school classrooms.

THEME

How do the federal and state governments divide and share power? How do the U.S. Constitution and Supreme Court factor into this question?

MATERIALS

The U.S. Constitution with amendments
Student in-class access to the Internet, if possible

METHOD

Anticipatory Set (for the night before):

Have students think about the following questions. On the day of the lesson, have some students share their stories.

1. Think of a time when you had to deal with a store or a manufacturer regarding a product's guarantee. How did that situation turn out? Did the store or manufacturer follow through on its guarantee?
2. Think of a time when you felt powerful because you had the power to decide something (for example, about your clothes, what you would do on vacation, etc.). What were the circumstances? Why did you feel the way you did? What was the outcome?
3. Think of a time when you felt powerless because you did not have the power to decide. What were the circumstances? Why did you feel the way you did? What was the outcome?

Transition:

These situations reflect part of the relationship between the federal government and the states as established by the U.S. Constitution. The Constitution grants states power over some, but not all, matters. The Constitution also defines the federal government's powers over and responsibilities to the states.

While the Constitution sets forth the broad outlines of federalism, its wording leaves room for interpretation. The U.S. Supreme Court, through cases argued before it, decides more precisely which levels of government will have what powers.

DAY 1

Gathering facts from the Constitution:

Divide students into six groups and have them look in the U.S. Constitution for answers to the following questions. (Each group may further divide to find answers more quickly.)

1. What guarantees does the U.S. Constitution give to the states?
2. What does the U.S. Constitution decide for the states?
3. What powers and roles are given to the states?
4. What can the national government decide for the states?
5. What are some limitations on the national government's power over the states?
6. What powers are denied the states?

Point students to where the answers are found in the Constitution. (See “U.S. Constitution-Federalism Topics and Location” at the end of lesson for teacher use.)

- Article I, Section 2
- Article I, Section 8
- Article I, Section 9
- Article II, Section 1
- Article II, Section 2
- Article IV, Section 1
- Article IV, Section 2
- Article IV, Section 3
- Article IV, Section 4
- Article IV, Section 10
- Article V
- 10th Amendment
- 12th Amendment
- 14th Amendment
- 17th Amendment
- 21st Amendment

Have the groups briefly share their findings with the class.

Ask students what, if anything, they would change about the current division of powers between levels of government. (Note: This previews the activity in which they develop their own philosophies on this issue.)

HOMEWORK

Find a newspaper article from a Wisconsin newspaper or videotape a segment from a local TV newscast that discusses the power of the federal government, the power of a state government (or state governments in general), or the relationship between the two. Write a brief summary of the article or newscast and identify the relevant section(s) of the U.S. Constitution.

DAY 2

Have students share their reports.

Ask the following questions:

1. Did you have any problems relating your story to a specific part of the Constitution?
2. What happens if the Constitution doesn't speak directly to an issue or if controversy over its meaning arises?
3. [Remind students that the Supreme Court's power of judicial review is not specifically mentioned in the Constitution but was established by the 1803 *Marbury v. Madison* decision.]

Examining a U.S. Supreme Court Case:

In pairs, students will receive information about a U.S. Supreme Court case that concerns the relationship between the federal government and the states. Write a summary of each case to give to the students. If students want more information, guide them toward additional sources. Examples follow.

Recent cases—See the U.S. Supreme Court Web site (link below):

- Case 99-1964, *Hunt v. Cromartie*: Did North Carolina unconstitutionally use race when drawing congressional district lines?
- Case 99-1908, *Alexander v. Sandoval*: Did the Alabama Department of Public Safety violate the 1964 Civil Rights Act?
- Case 98-1161, *City of Erie v. Paps A.M.*: Did Pennsylvania's law against nudity violate the First and Fourteenth amendments?
- 1997 decision about a portion of the Brady Bill
- 1995 decision about the federal gun-free school zone law
- 1995 *U.S. Term Limits v. Thornton*: Can states limit terms of members of Congress?
- 1987 *South Dakota v. Dole*: The state challenged constitutionality of 1984 National Minimum Drinking Age Act passed by Congress.
- 1987 *Puerto Rico v. Branstad*: Governor was unwilling to extradite a fugitive.

Historic cases:

- 1810 *Fletcher v. Peck*: Was a state law about contracts constitutional?
- 1819 *McCullough v. Maryland*: Could a state tax the Bank of the United States?
- 1954 *Brown v. Board of Education*: Can state and local governments segregate schools?

ASSIGNMENT

- Each partner chooses a side of the case and prepares a short argument as if he/she were a lawyer appearing before the U.S. Supreme Court.
- Each pair reports what the Supreme Court actually decided and what the pair believes is the significance of that decision.
- The pairs will then orally present this information.

ASSESSMENT STRATEGIES

Based on the arguments students have heard, each student writes a paragraph expressing his/her opinions on the proper relationship between the federal government and the states. The paragraph should include what powers each level of government should have (that is, which actions are best handled by which level) and how those powers should be limited. [I think it's more interesting without the last sentence.]

DOWNLOAD

- <http://www.civicsinstitute.org/curricula/downloads/1617311754Dunklau2> (25 K)
Provides examples of places where the federal-state relationship is mentioned in the U.S. Constitution. This can be a good starting point for the “Gathering Facts from the Constitution” section of this lesson. BROKEN LINK

SUGGESTED WEB SITE

<http://www.supremecourtus.gov/>

This lesson plan was adapted from materials by the Civics Institute—
http://www.civicsinstitute.org/curricula/high/US_Constitution_and_federa.html.



The “Separation of Powers” Doctrine: Why Do We Separate the Powers of Government?

The Wisconsin Constitution, like most state constitutions, divides the state government’s powers into three separate and independent branches. Such a division ensures that no central authority will become too powerful and endanger the liberties of the people. The three branches are the legislative, executive, and judicial. Although they are separate and independent, they must cooperate with each other to run state government.

The three-branch scheme copies the structure of national government, which the original framers of the U.S. Constitution adopted following the American Revolution. They wanted to avoid the concentration of power that was held by the English monarchy at that time, which they believed led to tyranny. So they provided for three branches that assume the three basic functions of government. The framers of the constitution further divided power by giving exclusive powers to the federal government and to the states. State governments also adopted the three-branch model.

Separation does not necessarily mean that the three branches have equal or balanced power. Governmental power comes from the people, who do not entrust it to a single entity. Separating governmental powers diffuses political authority and makes the operation of government in the U.S. more

cumbersome. The three branches of government are designed to compete against one another in the formulation of public policy and thereby strengthen our democracy. This is in stark contrast to the governmental structure in many other liberal democracies in which members of the majority political party in the legislature or parliament assume cabinet positions in the executive branch.

Like the U.S. Constitution, the Wisconsin Constitution does not explicitly require separation, but it does grant the powers of government to separate branches. The Wisconsin Supreme Court has held that each branch has an “exclusive zone” of core powers, and that the branches share certain other powers. For example, the judicial and the executive branches share the power to revoke the probation of a convicted felon. Wisconsin’s supreme court has taken a fairly permissive attitude toward sharing of power, so the various branches overlap more in Wisconsin than in most other states.

Legislative powers are further divided into a bicameral system, and the governor’s powers are similarly limited by the existence of several constitutional officers in the executive branch.

LEGISLATIVE POWERS

Two houses make up the legislative branch: the senate (with 33 members) and the assembly (with 99 members). Laws must pass both houses in identical form. This branch makes the law, passes the state budget, determines the tax structure of the state, and audits the other branches of government. These legislative actions set the public policy of the state. The legislature possesses plenary power, meaning the constitution does not grant specific powers to the legislature. It has all powers of government not assigned to another branch or prohibited by the federal Constitution.

Only the legislature may judge the qualifications of its members, so the courts cannot determine whether a person qualifies to serve as a legislator. The legislature also has exclusive authority to determine its rules of procedure.

The legislature has powers that serve as checks on the other branches. It can override a governor’s veto; it has the power to impeach civil officers from any branch of government; it establishes the lower courts; and it can originate an amendment to the constitution. Certain governor’s appointments must have the consent of the senate.

EXECUTIVE POWERS

The executive branch has the power and duty to administer, implement, execute, and enforce the law. The governor serves as the head of the executive branch and as commander in chief of the state military and naval forces. The executive branch includes most state agencies. The Wisconsin Constitution creates administrative officers, such as the attorney general, the treasurer, the superintendent of public instruction, and the secretary of state, who independently exercise some of the executive powers.

The governor also has powers that check the other branches. The legislature must present each bill that it passes to the governor, who can veto acts of the legislature and may call the legislature into special session. Wisconsin's governor has the strongest veto power in the U.S. The governor cannot dissolve a legislature or a legislative session. The governor can fill vacancies in judicial offices and may pardon persons convicted of a crime.

JUDICIAL POWERS

The third branch of government, the judicial branch, includes the state supreme court, the court of appeals, and all other courts. The seven-member supreme court controls the other courts, makes procedural rules for the courts, and hears final appeals. The courts determine how the law applies to a particular set of facts. Trial courts determine what evidence may be used to reach a decision and make findings of fact. Courts interpret the law and the constitution in actual cases or controversies, and make binding orders.

Courts fashion remedies—both

awards of money damages and injunctive relief—for rights that have been curtailed. Courts have inherent authority to incarcerate any person who disobeys a lawful court order. The judiciary can moderate the powers of the other branches. It can declare that acts of the legislature (statutes) violate the constitution, and it can rule that the executive branch has broken the law.

SHARED POWERS

In Wisconsin, two or more branches of government share certain powers.

Legislative-executive overlap.

State agencies may issue rules or regulations, but this is not a legislative function if the rules merely describe how statutes will be interpreted by an executive branch agency. The governor has a distinct role in the legislative process. He or she may propose bills and veto legislation. The main bill that the governor proposes is the state budget bill.

The legislature has the power to review proposed administrative rules. This function would be considered a violation of the separation of powers doctrine in many other states. If the legislature objects to an executive branch agency's proposed rule, it considers legislation to support the objection. The proposed rule cannot go into effect while the legislature considers that legislation.

When the legislature passes a bill, the constitution requires it to present the bill to the governor for signature. The governor may veto acts of the legislature, although the legislature can override the veto.

Legislative-judicial overlap. The state senate sits as the court for all impeachments of public officers. The state assembly initiates impeachments. The legislature has the power to learn facts upon which legislative choices may depend. It may hold hearings and subpoena witnesses and documents. The legislature can investigate the other two branches, generally acting through its committees. The legislature appoints the state auditor.

Courts usually do not rule on political questions, reserving that task for the legislature. Nor do the courts normally rule on the propriety, practicality, or wisdom of a statute. Courts may only invalidate statutes that violate the constitution.

Executive-judicial overlap. Executive branch agencies may conduct hearings that resemble judicial proceedings. Agencies may hold such hearings to determine if certain facts exist, to grant or revoke licenses, to assess penalties, and to perform other executive acts, subject to judicial review, as long as the hearing officer does not exercise judicial powers.

SUMMARY

The constitution separates the powers of government to avoid concentration of governmental power and to prevent tyranny. The doctrine does not require total separation of powers, but it sacrifices some efficiency in government to ensure that the people will have liberty.

Governing Wisconsin: "Separation of Powers"

Study Questions

1	What document creates the three branches of government? What are the three branches?	
2	How does the separation of powers prevent tyranny?	
3	How do the three branches of the state government check each other? Design a chart to illustrate your answer.	
4	Compare the structure of Wisconsin's government to the structure of federal government. Make a list to show the comparison.	
5	If the legislature passed a law requiring 18-year-olds to do community service for one year, and the judicial branch declared the law unconstitutional, how could the legislature make the law a reality?	
6	How does the separation of powers doctrine sacrifice efficiency for protection against tyranny? Is this a good or a bad thing?	

Governing Wisconsin: Separation of Powers

Study Questions in the Cognitive Domain

1	What document creates the three branches of government? What are the three branches?	The Wisconsin Constitution creates the three branches of state government in Wisconsin. The branches are the legislative, the executive, and the judicial.	Cognition
2	How does the separation of powers prevent tyranny?	The power of the state is separated into three branches each with separate and competing powers. Each branch can check the others in some way, thereby preventing any one branch or person from seizing too much power.	Comprehension
3	How do the three branches of the state government check each other? Design a chart to illustrate your answer.	Students should make a graphic representation that shows executive checks (veto, pardon criminals, fill judicial vacancies); legislative checks (override vetoes, impeach officers from any branch, originate an amendment); and judicial checks (interpret laws, can rule against the executive branch).	Application
4	Compare the structure of Wisconsin's government to the structure of federal government. Make a list to show the comparison.	Both governments are comprised of three branches. Both provide a separation of powers; one branch checks the powers of the other two branches. The governor and the president have veto power. Both systems have a bicameral legislature. Both supreme courts have the power of judicial review, but the U.S. Supreme Court has final review.	Analysis
5	If the legislature passed a law requiring 18-year-olds to do community service for one year, and the judicial branch declared the law unconstitutional, how could the legislature make the law a reality?	The legislature can begin the process to amend the state constitution.	Synthesis
6	How does the separation of powers doctrine sacrifice efficiency for protection against tyranny? Is this a good or a bad thing?	Neither the governor nor the legislature can both make the law and enforce it. Even then, government action is subject to review by the courts. Because both branches must act, citizens are more secure, which makes the inefficiency of separation of powers a good thing.	Evaluation



Due Process of Law

WHAT IS DUE PROCESS OF LAW?

Due process is a legal principle that requires the government to respect all of a person's rights. It means that the government must obey the law, act in a reasonable manner, and use fair procedures when it acts to limit a person's life, liberty, or property.

ORIGINS OF THE DUE PROCESS IDEA

Many historians believe that the common peoples' need for justice and a fair say in their government began to be met about 800 years ago. In 1215, the nobles—the privileged, ruling class—in England forced King John to sign the Magna Carta (Latin for “Great Charter”), in which the king promised to honor their rights to property and to treat them justly. The nobles also demanded and won the right to be judged only by their peers (meaning other nobles). That promise eventually became the basis for a trial by a jury of equals, which is one of the core principles of procedural due process. Here's the actual language from the Magna Carta: “No free man shall be taken or imprisoned or deprived of his freehold or his liberties or free customs, or outlawed or exiled, or in any manner destroyed, nor shall we come upon him or send against him, except by legal judgment of his peers or by the law of the land.”

Later British kings and nobles lost more and more power to the common person. In 1628, King Charles I was forced to sign another famous agreement, the Petition of Right, that required the king to respect personal and property rights. When he later broke his promise, war broke out. Charles lost that war and was brought to trial, where he was found guilty. He

was beheaded. The people were gaining more and more power over their rulers.

William and Mary, the next rulers, were forced to sign several documents before they could reign. Signed in 1689, the Bill of Rights accepted the absolute power of Parliament, the British legislature, and outlined British citizens' rights to own property, to write and say what they wanted, and to expect fair treatment when accused of a crime.

THE UNITED STATES CONSTITUTION AND THE BILL OF RIGHTS

America's founders were well aware of this history when, almost 100 years later, they met to draw up our constitution. They knew the new country needed a strong government to protect its citizens, but they also knew the rights of individuals needed to be protected from abuses of power by that government. The U.S. Constitution, ratified by the states in 1789, made it clear that no citizen could be put in jail without an explanation. Anyone put in jail had to be brought before a judge to determine whether the evidence justified a trial or whether the prisoner had to be released. These two provisions, requiring notice and hearing, constitute the core of due process: the government must tell a person why he or she is being taken into custody and must allow the person a chance to be heard.

Other sections of the Constitution prohibited the government from passing any law that took away a citizen's property, freedom, or life

until after the person had a fair trial; prohibited the government from punishing a person for committing a crime that was not a crime when it was committed; and prohibited the government from changing the penalty for a crime after it was committed or altering laws to make it easier to convict someone accused of a crime.

The Bill of Rights was ratified in 1791, adding ten amendments to the Constitution. These included the rights to freedom of religion, freedom of speech, freedom of the press, freedom to peacefully assemble, freedom from unreasonable searches and seizures, and the right to keep and bear arms. In the Fifth Amendment, citizens were guaranteed basic due process of law. The amendment reads, “No person shall be...deprived of life, liberty, or property without due process of law.”

THE FOURTEENTH AMENDMENT

Because the main concern of the founders was to ensure that the national government did not overshadow the freedom of the states, all of the protections in the Bill of Rights, even the guarantee of due process in the Fifth Amendment, applied only to actions of the United States government. But what about actions of a state or local government? After all, most people come into contact with various state and local officials much more often than with federal officials. The founders may have assumed that individual state constitutions would provide adequate protection from abuses of power by state and local officials. But this was not the case, and many lawmakers came to believe that the freedoms protected by the Bill of Rights against the actions of federal officials should also be protected

against state and local officials. In particular, after the Civil War (1861-1865), the lawmakers wanted to provide protection for the newly won rights of African Americans against their abuse by the southern states, which had seceded from the Union and instigated the Civil War.

The Fourteenth Amendment to the Constitution, ratified by the states in 1868 (Congress required each southern state that had seceded from the Union to ratify the amendment in order to be readmitted to the Union), permanently changed the American legal system because it extended all of the protections of the Bill of Rights, including the guarantee of due process in the Fifth Amendment, to possible abuses by state and local officials. The heart of the amendment is its first section, which contains two of the most important phrases in American constitutional law: due process and equal protection. The last two clauses of the first section read, "...nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person...the equal protection of the laws."

Equal protection means that the government may not pass a law that discriminates against an individual or group. For example, a law prohibiting interracial marriages treats people differently based on race and thus violates the equal protection clause.

PROCEDURAL AND SUBSTANTIVE DUE PROCESS

The language of the Fourteenth Amendment has come to dominate American constitutional law in the twentieth century. Over the years, the United States Supreme Court has interpreted the Due Process clause to have both procedural and substantive elements. In other words, the clause imposes restrictions on the ways in which laws may operate as well as on what laws may attempt to do or prohibit. Procedural due process is

essentially based on the concept of fundamental fairness. It includes the individual's right to be adequately notified of charges or proceedings against him or her (notice), and the

WISCONSIN'S DUE PROCESS CLAUSE

Wisconsin's Constitution, adopted in 1848, has its own due process clause, which is quite different from the one in the Fourteenth Amendment. Article I, section 1, reads, "All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed." The Wisconsin Supreme Court has stated, however, that "While the language used in the two constitutions [Wisconsin's and the United States] is not identical...the two provide identical procedural due process protections." *County of Kenosha v. C & S Management, Inc.*, 223 Wis. 2d 372, 393 (1999)

opportunity to be heard at the proceedings (hearing). In criminal cases, it ensures that an accused person will not be subjected to cruel and unusual punishment. It provides a minimum floor of protection that a law or proceeding must meet to ensure that no one is deprived of life, liberty, or property arbitrarily or without an opportunity to affect the result.

Courts have also viewed the due process clause as embracing certain fundamental rights. These include life, property, and freedom from imprisonment, as well as the right to vote, the right to travel, and the right to privacy. Under the substantive due process doctrine, if a right is considered fundamental, the government may not infringe that right unless the infringement is narrowly drawn to serve a compelling interest; i.e., something necessary or crucial, not merely preferred.

REVOLUTION AND EVOLUTION

While the adoption of the Fourteenth Amendment revolutionized American constitutional law by extending the protections of the Bill of Rights to state and local government officials, it would be a mistake to conclude that it is only of historical interest. The Fourteenth Amendment continues to provide us with the constitutional means to achieve social progress. Many of today's issues, such as abortion rights, the right to die, intelligent design, locker searches, and sexual harassment, have been argued in the courts and will continue to be argued in the courts with legal arguments that involve the Fourteenth Amendment. In fact, the revolutionary Fourteenth Amendment has become the single most important reason why our system of justice continues to evolve.

FURTHER READING

The Commission on the Bicentennial of the United States Constitution. *1791-1991: The Bill of Rights and Beyond*. Washington, D.C.: U.S. Congress, 1991.

Dudley, William, ed. *The Creation of the Constitution: Opposing Viewpoints*. San Diego, Calif.: Greenhaven Press, Inc., 1995.

Faber, Doris and Harold Faber. *We the People: The Story of the United States Constitution Since 1787*. New York: Charles Scribner's Sons, 1987.

Foner, Eric. *The Story of American Freedom*. New York: W.W. Norton & Company, 1998.

James, Joseph B. *The Framing of the Fourteenth Amendment*. Urbana, Ill.: The University of Illinois Press, 1956.

By Peter Grant, Managing Attorney
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 18, November 2006

Governing Wisconsin: "Due Process of Law"

Study Questions

1	What are the two essential elements of due process of law?	
2	Why is due process of law essential to a free society?	
3	By what mechanism can a person require the government to follow the due process of law?	
4	How might governmental actions based on due process of law and those based on the personal preferences of a government official differ?	
5	If there was no due process of law requirement in our constitution, what could citizens do to force the government to base its actions on reasonable grounds?	
6	Why do people in the modern era need the same kind of due process protection that people needed from the king 800 years ago?	

Governing Wisconsin: “Due Process of Law”

Study Questions in the Cognitive Domain

1	What are the two essential elements of due process of law?	The government must give notice to any person before taking action that will adversely affect life, liberty, or property, and must allow that person to have a hearing on the pending governmental action.	Cognition
2	Why is due process of law essential to a free society?	Because only the government has the power to imprison people, end their lives, or take their property. The requirement of due process prevents the government from taking such actions without demonstrating good reasons for doing so.	Comprehension
3	By what mechanism can a person require the government to follow the due process of law?	The courts enforce due process of law; therefore, the judicial branch limits the arbitrary exercise of power by the executive branch of government.	Application
4	How might governmental actions based on due process of law and those based on the personal preferences of a government official differ?	Due process of law makes it more likely that governmental actions will have a rational basis, and will not be just the arbitrary or capricious result of the whim of some powerful government official.	Analysis
5	If there was no due process of law requirement in our constitution, what could citizens do to force the government to base its actions on reasonable grounds?	The available options—public demonstrations, petitioning the government, using the press to exert pressure, or electing new leaders—might be effective, but probably only temporarily. The only real solution would be to amend the constitution to add a due process requirement.	Synthesis
6	Why do people in the modern era need the same kind of due process protection that people needed from the king 800 years ago?	Modern day presidents and governors (and even the local police) wield tremendous power that no average citizen can match. Due process of law helps prevent abuse of that power.	Evaluation



Citizenship

WHAT IS CITIZENSHIP?

At its most fundamental level, citizenship deals with how people relate to a particular government and to other citizens. As citizens, we expect certain things from government and other citizens; in turn, government and other citizens expect certain things from us. Generally, we can identify four ways in which to talk about citizenship.

First, we can think of citizenship in terms of obligation. As citizens, we are obliged to follow the law and respect the rights of other citizens. This obligation is usually understood in terms of self-interest. By following the law, we expect others to do the same. In this way, we, our families, and our property are protected from harm. Similarly, we are obligated to government so long as it fulfills its responsibility to make laws that protect us and to enforce these laws in a fair manner.

Second, citizenship describes a shared identity that binds people together. Rituals like reciting a pledge of allegiance or singing a national anthem help produce this common identity. While this may seem unimportant, a shared identity can justify sacrifices by citizens during wartime or economic crises and can encourage political participation, political efficacy, and political loyalty. Indeed, a government's ability to create this common identity can be seen as one measure of its success.

Third, citizenship entails political participation. In a democracy, the most obvious form of political participation is voting in elections. But citizens may also take part in the political process by attending town hall meetings, protesting governmental actions, writing their legislators, lobbying, or engaging in any number of activities in which individuals seek to influence public policy or the direction of government. If citizenship requires a shared identity, it also needs shared endeavors. Political participation constitutes one of the most important of these shared endeavors.

Finally, government must provide physical and legal protection for its citizens. But a person does not necessarily enjoy the full benefits of citizenship by simply being designated as a "citizen." For example, if citizenship in a democracy includes a right to vote and if a citizen is prevented from voting by threat or physical coercion, then that person is effectively not a full citizen. For citizenship to prevail, a citizen must be free to exercise his or her full citizenship rights.

POLITICAL PARTICIPATION IN THE UNITED STATES

Through the direct election of members of Congress, and the election of the president (via the Electoral College), the federal Constitution provides for direct

representation of the citizenry. To the extent that candidates compete in elections by offering citizens distinct and clear public policy choices, elections serve as public policy referenda. In addition to voting and engaging in political action, citizens also have ample opportunity to serve in public office. In the United States, there

By pledging allegiance to the United States, American citizens agree to fulfill their obligations by shouldering the burdens of citizenship . . . they attempt to realize every day that government Abraham Lincoln spoke of, a "government of the people, by the people, for the people."

are over 500,000 elected officials, providing an opportunity for citizens to become directly involved in the policy-making and political processes.

American citizenship is a fluid, changing concept. Over time, citizens have gained greater influence over the political system through the direct election of United States senators, as well as through the introduction of party primaries. Significantly, voting restrictions that made some U.S. citizens second class have fallen away. Women, African Americans, and 18- to 20-year-old Americans have all gained the right to vote through constitutional amendments.

Despite these changes, a number of factors limit citizens' political influence. Only elected officials, and not the vast majority of citizens, have direct decision-making power. Although states use referenda in limited cases, all federal and most state decisions do not require a direct vote from citizens. Also, citizens have only a remote role in selecting and controlling the federal judiciary. While this often works to safeguard rights, since judges can interpret the law without fear of electoral defeat, it also creates a branch of government with comparatively little accountability. Lastly, the framers of the federal constitution envisioned the relatively long terms of United States senators and the Electoral College process as safeguards against too much democracy.

LEGAL PROTECTIONS IN THE UNITED STATES

Citizenship in the United States affords numerous privileges and protections. The Bill of Rights secures fundamental rights, such as free speech, religious freedom, and a fair and speedy trial. It prohibits government from housing soldiers in citizens' houses, from taking land without just compensation to the owner, and from carrying out unreasonable searches without justification. The government cannot abridge these rights. In addition to the rights guaranteed in the Constitution, statutory entitlements such as Social Security and Medicare have become benefits associated with citizenship. While these rights are crucial for citizens, the scope of the rights is subject to change by court interpretation, legislation, and executive enforcement.

STATE CITIZENSHIP?

Does the concept of citizenship have any meaning within the individual states of the Union? Can a person be a citizen of Wisconsin? States granted citizenship until 1790 when Congress assumed this authority. Today, states issue driver's licenses but do not issue official documents of citizenship. Therefore, referring to a person as a "resident" of Wisconsin is more accurate than describing someone as a "citizen" of Wisconsin. Many of the components that go into United States citizenship, however, also apply at the state level. Wisconsin has its own laws, government, and collective identity, although all of these work within the framework of U.S. citizenship.

States do not grant citizenship, but they can permit noncitizens to vote and receive state benefits and entitlements. While noncitizen voting seems surprising today, Wisconsin's original constitution allowed noncitizen men to vote after only one year of residence. This provision, the first of its kind in the nation, was repealed in 1908.

WHO CAN BE A CITIZEN?

A person can attain American citizenship in two ways. First, the Fourteenth Amendment guarantees that all persons born in the United States are citizens, even if the person's parents are not American citizens. Second, immigrants can gain citizenship through a process called naturalization. To become naturalized, an immigrant must be a permanent resident, must have lived in the United States for five years, must be over the age of 18, must display good moral character, must agree with the principles of the Constitution, and must pass civics and English proficiency tests.

The pathway to citizenship has changed over the course of American history. Congress has required anywhere from 2 to 14 years of residency in the United States to complete naturalization and become a citizen. An 1875 federal law placed the first restrictions on persons such as criminals from entering the United States. In 1921, in the wake of mass immigration to the United States, Congress enacted the first legislation to limit substantially the number of immigrants permitted to enter the country. This question of who may become a citizen is just one of many issues citizens decide together.

CONCLUSION

Citizens take part in the political process by voting for political officials, running for office, and in various ways petitioning the government for a redress of grievances. They agree on a set of rights designed to ensure liberty and justice for all. By pledging allegiance to the United States, American citizens agree to fulfill their obligations by shouldering the burdens of citizenship. In these ways, they attempt to realize every day that government Abraham Lincoln spoke of, a "government of the people, by the people, for the people."

Governing Wisconsin: "Citizenship"

Study Questions

1	What steps must an immigrant follow to become a U.S. citizen through naturalization?	
2	Why would an immigrant to the United States want to become a citizen?	
3	On a chart, how would you show the ways in which a citizen relates to his or her government?	
4	In what ways does government limit the political participation of citizens?	
5	How would the U.S. be different if state citizenship were more important than federal citizenship?	
6	How strong is the link between the concepts of citizenship and self-governance? How has this relationship changed over time?	

Governing Wisconsin: “Citizenship”

Study Questions in the Cognitive Domain

1	What steps must an immigrant follow to become a U.S. citizen through naturalization?	To become naturalized, the immigrant must be a permanent resident, live in the U.S. for five years, be at least 18 years old, display good moral character, support the Constitution, and pass civics and English proficiency tests.	Cognition
2	Why would an immigrant to the United States want to become a citizen?	The Bill of Rights secures free speech, religious freedom, and a fair and speedy trial for U.S. citizens. Government cannot house soldiers in citizens’ houses, cannot take land without just compensation to the owner, and cannot unreasonably search without justification. Social Security and Medicare are also benefits associated with citizenship.	Comprehension
3	On a chart, how would you show the ways in which a citizen relates to his or her government?		Application
4	In what ways does government limit the political participation of citizens?	Limitations include the following: (1) we have a representative form of government, rather than a direct democracy; (2) some public officials are not elected but are appointed; and (3) some elected officials have very long terms of office.	Analysis
5	How would the U.S. be different if state citizenship were more important than federal citizenship?	To a greater extent, important political problems would be dealt with on the state level. Citizens would identify themselves first as citizens of their individual state and then as U.S. citizens. Obligations of citizenship and political participation would be channeled primarily through the state level.	Synthesis
6	How strong is the link between the concepts of citizenship and self-governance? How has this relationship changed over time?	The link is strong. The relationship between citizenship and self-governance has grown stronger over time: as various minority groups have achieved American citizenship, they have become involved in government and changed American society.	Evaluation

Part II

Establishing a State Government

Northwest Ordinances

Wisconsin Idea

American Indian Powers

Wisconsin Constitutional
Conventions

Amending the Wisconsin
Constitution





The Northwest Ordinances: How the Act Influenced the Development of the Midwestern States

More than two centuries ago, the Northwest Ordinances influenced the development of Wisconsin, its form of government, and even the shape of its towns.

Although Wisconsin became the 30th state in 1848, the path to statehood began much earlier, with European settlement by the French in 1634, followed by transfer to Britain by the 1763 Treaty of Paris and to the province of Quebec in 1774. The ordinances of 1784, 1785, and 1787 established the procedures for the settlement and government of the Northwest Territory, which ultimately led to the creation of the Wisconsin Territory, and the framework that remains evident today.

Following the U.S. War of Independence, the ordinances of 1784, 1785, and 1787, commonly referred to as the Northwest Ordinances, were enacted by the Congress of the Confederation to establish a process for the settlement of the Northwest Territory—the lands west of Pennsylvania, east of the Mississippi River, north of the Ohio River, and south of the Great Lakes. Before U.S. independence, New York, Virginia, and other states claimed various parts of the territory. As one of the conditions of statehood, these states ceded their claims to the central government. Although this action by the states had a unifying effect in building the fragile new nation,

considerable debate remained over how the lands should be settled, by sale either to groups and companies or to pioneering individuals, and how future states would be admitted to the Union.

ORDINANCE OF 1784

In March 1784 a committee led by Thomas Jefferson drafted and reported an ordinance for governing the territory. Congress passed it April 23, 1784. The proposal divided the territory into self-governing districts, each of which would govern itself according to the constitution of one of the existing states and would be able to send one representative to Congress upon reaching a population of 20,000. A district could become eligible for statehood when its population had grown to that of the least populous existing state, which at the time was Delaware, with about 60,000 people. Jefferson had envisioned the creation of possibly ten states from the territory, but at that relatively small geographic size per state, attaining a population of 60,000 would take many years.

GENERAL LAND ORDINANCE OF 1785

Jefferson concluded that the 1784 ordinance, which never went into effect, would not promote settle-

ment of the western territories. A new plan emerged in 1785 to deal with the sale of western lands for settlement, and it included a procedure for the United States geographer to oversee a survey of the territory. This ordinance of 1785 (enacted in May 1785) called for dividing the land into townships of six miles square, with the first north-south and east-west lines beginning on the Ohio River extending north and west of the southern boundary of Pennsylvania, and the townships numbered from south to north and progressing westward. Townships would be divided into sections one mile square (640 acres) and numbered 1 to 36. Lots numbered 8, 11, 26, and 29 in each township were reserved for the United States government, and lot 16 was reserved for public schools.

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Surveyors mapped townships of six miles by six miles, subdivided into 36 numbered sections of one square mile (640 acres) each.

The ordinance specified how lands were to be sold, reflecting something of a compromise, alternating between certain townships to be sold in their entirety and others as individual sections, at no less than one dollar per acre at auction, plus survey costs of \$36 per township. Although the price sounds remarkably inexpensive by today's standards, the \$640 minimum price for a section was a substantial sum at the time, and even the "smaller" 640-acre parcels were unaffordable and too large for a typical family to purchase and manage directly. The price was, however, appealing to development companies who could afford to buy the land on speculation.

The Public Land Survey System (PLSS) created by the General Land Ordinance of 1785 remains the basis for the legal description of most land in Wisconsin. For more information, see *Understanding Wisconsin Township, Range, and Section Land Descriptions*, by Irene D. Lippelt, at the following site: <http://www.uwex.edu/wgnhs/pdfs/espdf/legdes.pdf>.

ORDINANCE OF 1787

Later in 1785 James Monroe urged a modification of Jefferson's initial proposal to divide the territory into fewer states. A committee of Congress, led by William Johnson of Connecticut and Nathan Dane (for whom Dane County, Wisconsin, is named) of Massachusetts, along with Rufus King of Massachusetts, drafted a new ordinance in September 1786. The ordinance provided that three to five states would be created and that Congress would appoint a governor and other officers rather than having the new states temporarily operating according to the constitution of one of the

original states. Only later would residents of the territory gain the rights and powers of representative government. When the adult male population in a territory reached 5,000, they could elect a legislature and send a nonvoting delegate to Congress.

Subsequent proposals advanced by Dane added the rights of freedom of religion, habeas corpus, and trial by jury to be guaranteed in the western territories; by April 1787, the committee reported a bill that retained those provisions and added, late in the process, a prohibition on slavery in the states to be created from the Northwest Territory (without addressing the issue of slavery where it existed to the southwest).

Congress passed the Ordinance of 1787 on July 13, 1787, replacing the earlier 1784 ordinance. Ohio (1803) was the first state to be created from the territory, and was followed by Indiana (1816), Illinois (1818), Michigan (1837), and Wisconsin (1848).



Present-day states created from the Northwest Territory

Although the initial status of the territories, with respect to the United States, governed by officials appointed by Congress, was similar

to the relationship of the British colonies in North America to the mother country, the similarity ends there. The passage and implementation of the Northwest Ordinances were significant in the development of the new country for a number of reasons. They provided the framework for the creation of territories in the western lands and provided a predictable path to statehood and representative government on an equal, rather than a subservient, basis with the original states, not only for the five states created from the Northwest Territory, but also as a precedent for the admission of other states. Furthermore, the guarantees of civil and religious liberties for the territories established a precedent for what would later become the Bill of Rights, the first ten amendments to the new federal constitution.

TERRITORIAL WISCONSIN TIMELINE

As boundaries within the Northwest changed and states were created from the territories, the land of present-day Wisconsin was part of a number of different territories, as follows:

Northwest Territory, 1787–1800
Indiana Territory, 1800–1805
Michigan Territory, 1805–1809
Illinois Territory, 1809–1818
Michigan Territory, 1818–1836
Wisconsin Territory, 1836–1848
Statehood, 1848–present

To see maps showing the historical changes in the territories, visit the Wisconsin Historical Society's site, <http://www.wisconsinhistory.org>.

By Robert Paolino,
Senior Legislative Analyst
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 14, February 2006

Governing Wisconsin: "The Northwest Ordinances"

Study Questions

1	Why is Wisconsin a state that never had legalized slavery?	
2	The ordinance of 1784 never went into effect. What were two problems with this original plan?	
3	Under the ordinance of 1785, how many <i>acres</i> of land in each township were reserved for the federal government?	
4	The Bill of Rights was completed in 1789 and ratified in 1791. How did Nathan Dane affect the Bill of Rights?	
5	Compare the shape of the states on the East Coast with the shape of states farther west. Which Northwest Ordinance caused this difference? Explain how it affected the shape of states.	
6	Which plan for the territories was more democratic: Jefferson's proposal under the ordinance of 1784 or the one designed by William Johnson, Nathan Dane, and Rufus King in 1786?	

Governing Wisconsin: “The Northwest Ordinances”

Study Questions in the Cognitive Domain

1	Why is Wisconsin a state that never legalized slavery?	Under the ordinance of 1787, slavery was prohibited in the Northwest Territories.	Cognition
2	The ordinance of 1784 never went into effect. What were two problems with this original plan?	(1) It took many years for Wisconsin to become a state. Jefferson envisioned ten small states for this territory, but since a territory would need 60,000 people before becoming a state, this would be a very slow process. (2) The plan did not promote settlement.	Comprehension
3	Under the ordinance of 1785, how many <i>acres</i> of land in each township were reserved for the federal government?	The federal government reserved four, one-mile-square parcels within each township. Each parcel was 640 acres, so the federal government kept 4 x 640, or 2,560 acres.	Application
4	How did Nathan Dane affect the Bill of Rights?	Dane added a proposal to the ordinance of 1787 that granted citizens in the territories the rights of freedom of religion, habeas corpus, and trial by jury. These later became rights guaranteed under the Bill of Rights.	Analysis
5	Compare the shape of the states on the East Coast with the shape of states farther west. Which Northwest Ordinance caused this difference? Explain how it affected the shape of states.	East Coast states are smaller, scrunched, oddly shaped. Western states are bigger, angular, often rectangles. The ordinance of 1785 divided territories into six-mile-square grids. This ordinance became the model for statehood, and all new lands acquired by the U.S. were divided in this way, creating a square shape in the newer states.	Synthesis
6	Which plan for the territories was more democratic: Jefferson's proposal under the ordinance of 1784 or the one designed by William Johnson, Nathan Dane, and Rufus King in 1786?	Jefferson's plan was more democratic. The plan allowed, among other things, states to self-govern under the constitution of a neighboring state and to send a voting representative to Congress when the population reached 20,000. It provided an easier path to statehood, guaranteed certain rights, and prohibited slavery.	Evaluation



The Wisconsin Idea

WHAT'S THE BIG IDEA?

Wisconsin is known for many things, including, in no particular order, the Green Bay Packers, the Badgers, brats, cheese, dairy farms, Harley Davidson motorcycles, numerous lakes and streams, and abundant natural beauty. However, perhaps the most far reaching and significant aspect of our identity as a state is not a readily recognizable icon or tangible product but a concept, or more specifically, an idea—an idea that has come to be known as the “Wisconsin Idea.”

What exactly is the Idea and why is it important? Why is there a “Wisconsin Idea” but not an “Illinois Idea” or a “Minnesota Idea”? What concepts are reflected by the Idea and how do they distinguish us from the residents of other states?

The Wisconsin Idea has meant different things to different people at different times. Educators, bureaucrats, scientists, writers, and politicians have all used the expression in differing contexts to refer to an aspect of the relationship between the University of Wisconsin, state government in Wisconsin, and the citizens of Wisconsin. The most commonly offered definition of the Wisconsin Idea is that “the boundaries of the University are the boundaries of the state,” which refers to the University of Wisconsin’s service to Wisconsin state government and Wisconsin citizens. However, this definition falls short of explaining what the Idea actually means or the programs, policies, and products that have stemmed from the Idea. The first step in understanding the Wisconsin Idea is to look at the context that first gave it life.

ROOTS OF THE IDEA

The Wisconsin Idea grew out of a series of fortunate circumstances. Wisconsin became a state in 1848, and one year later the university was established. The fact that the University of Wisconsin campus and the seat of state government were both located in Madison, barely a mile apart, provided a natural connection which facilitated the partnership that soon developed. The proximity of the seat of learning and the seat of government, coupled with the fact that both institutions were organized at about the same time, provided the fertile environment for the Idea to take root.

The second fortuitous circumstance was the friendship between Charles Van Hise, president of the University of Wisconsin from 1903 to 1918, and Robert M. La Follette, governor of Wisconsin from 1901 to 1905. The former North Hall dorm friends worked closely together and shared the view that professors should put their academic research and technical expertise to use by helping state government solve social and political problems. Van Hise declared that he “would never be content until the beneficent influence of the university reaches every family in the state.” “Fighting Bob” La Follette, leader of the Progressive movement, who later served in the U.S. Senate, stated that his goal was to take advantage of the resources of the university to strengthen state government. He did this by appointing more than 40 university professors to various state boards and commissions.

The third factor that gave rise to the Wisconsin Idea had to do with the contributions of Charles McCarthy, who, after receiving his Ph.D. in American history from the university, found himself in need of a job. In 1901 McCarthy, an Irish immigrant from Brockton, Massachusetts, found work as a legislative documents clerk. From this modest beginning, McCarthy went on to shape the future of Wisconsin state government. He transformed the job of collecting state documents into a new agency that became the primary source of information for legislators and state government. The Legislative Reference Library was more than a repository of documents: it served as a clearinghouse of ideas, information, and knowledge. McCarthy’s diligence and enthusiasm, and his association with progressive thinkers at the university, made him a key resource for legislators seeking to enact legislation. McCarthy is also credited with popularizing the Wisconsin Idea. He wrote a book with that title and documented the remarkable range of legislative initiatives that resulted from the partnership of politicians, professors, and administrators.

THE IDEA BEARS FRUIT

The combination of fortunate coincidences created the climate that led to the birth of the Wisconsin Idea; it was the need for practical solutions to problems facing the state, though, that nourished the Idea and gave it substance.

A first beneficiary was the Wisconsin dairy industry. When Wisconsin first became a state, wheat was the most important crop and dairy farming was secondary. Due to problems caused by

diseases and pests, soil depletion, and fluctuating prices, Wisconsin farmers began to look for ways to diversify and increase profits. To do this they looked to the university for technical help. The College of Agriculture produced valuable research and provided practical tools which directly led to Wisconsin's status as "America's Dairyland." Stephen Babcock, a university chemist, developed a simple, accurate test to determine the fat content of milk. Cheese makers used the Babcock Test to evaluate the quality of milk, and the test was invaluable in producing quality cheese. Other research focused on such diverse topics as round silos, tuberculosis in cattle, potato research, and how to keep cans of peas from exploding. In addition, the university offered "farmer institutes" and "short courses," which were held during the winter, were of short duration, and required only a "common school education." The programs, with their emphasis on providing farmers with practical advice, were an immediate success. It was estimated that 50,000 farmers attended the first sessions.

Wisconsin's farmers and dairy industry benefited greatly from the research and discoveries attributable to the enterprising climate associated with the Wisconsin Idea. As important as these contributions were, they were primarily technical and practical in nature and designed to remedy existing problems. Equally as important were the governmental reforms that were enacted. This legislation was innovative and visionary and a direct outgrowth of the principles of good government embodied by the Wisconsin Idea. Laws were adopted to make government more responsive to the people rather than special interests and included reforms of the election process, civil service, minimum wage and fair employment practices, worker safety, taxation, and utility regulation. Many of these laws were the first of their type and served as the model for legislation in the rest of the nation.

Following the Progressive era, the intellectual and creative energy nurtured by the Idea continued to inspire both researcher and administrator. They included such luminaries as

"The Wisconsin tradition meant more than simple belief in the people. It also meant a faith in the application of intelligence and reason to the problems of society. It meant a deep conviction that the role of government was not to stumble along like a drunkard in the dark, but to light its way by the best torches of knowledge and understanding that it could find."

—Adlai Stevenson

environmentalists John Muir and Aldo Leopold, and Edwin Witte, the architect of social security, who was both a university economist and state administrator.

THE WISCONSIN IDEA TODAY

The influence of the Wisconsin Idea was at its height during the first part of the 20th century when it served as a blueprint for political and social reform. Since that time, several factors have contributed to a gradual lessening of its influence on policymakers. The first is obvious: the relationship between La Follette and Van Hise was unique, and the impetus for change that grew from their relationship ebbed when they left their respective offices. Other factors have more to do with the changing political climate and the growth of government. The professionalization of the legislature and the growth of the executive branch can be viewed both as a byproduct of the Idea and as a broader source of public policy expertise that reduces reliance on the university. Similarly, the growth of interest groups representing all parts of the political spectrum makes more information more readily available to policymakers. Also, the sometimes

uneasy relationship between the university, the governor, and the legislature—often impacted by budget issues—has at times been a disincentive to cooperation.

Although it can be argued that the Wisconsin Idea does not have the same power it once did as an engine that drives social and political change, it is still significant to our identity as a state and is an enduring element of our social fabric. Nationally, the Idea has come to epitomize an enlightened role of government that exists solely to serve the people. Adlai Stevenson, statesman, Illinois governor, and two-time candidate for president in the 1950s, saw its significance in a larger context: "The Wisconsin tradition meant more than simple belief in the people. It also meant a faith in the application of intelligence and reason to the problems of society. It meant a deep conviction that the role of government was not to stumble along like a drunkard in the dark, but to light its way by the best torches of knowledge and understanding that it could find."

The sharing of ideas and expertise between the university and state government has been a constant for over a century. That relationship, expressed by the phrase "Wisconsin Idea," has come to describe the partnership between the academic world and government for the benefit of the common good. The discoveries, inventions, and legislation that can be considered the fruit of the Idea have improved and enriched the lives not only of Wisconsin residents but also of the entire nation. Wisconsin pioneered that approach and led the way as other states took note of the benefits and prosperity that followed. Today that model of institutional cooperation is commonplace at the federal level as well as in most states.

By Lawrence Barish, Research Manager
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 15, March 2006

Governing Wisconsin: "The Wisconsin Idea"

Study Questions

1	List three ways in which the Wisconsin Idea influenced the rest of the nation.	
2	Why did Charles Van Hise and "Fighting Bob" La Follette think that a relationship between the government and the university would "strengthen state government"?	
3	How are the Packer Cheeseheads and the Wisconsin Idea related?	
4	Look back at the quote by Adlai Stevenson. What problems in policy making was the Wisconsin Idea trying to prevent?	
5	In 1921, the UW Regents turned down private money for research, arguing that the gift would violate the principle of democratic state education. Is this consistent with the Wisconsin Idea?	
6	The Regents' decision (see item 5) in 1921 did not hold. Today, more than half of the UW's budget comes from private and federal funding. What are some effects of this changing relationship?	

Governing Wisconsin: “The Wisconsin Idea”

Study Questions in the Cognitive Domain

1	List three ways in which the Wisconsin Idea influenced the rest of the nation.	The Wisconsin Idea inspired reforms, such as minimum wage, civil service, worker safety, tax reform, and utility regulation, that later served as a model for the rest of the nation.	Cognition
2	Why did Charles Van Hise and “Fighting Bob” La Follette think that a relationship between the government and the university would “strengthen state government”?	These two friends thought the research done at the university could help the government make informed policy decisions. The university could help find practical solutions to state problems.	Comprehension
3	How are the Packer Cheeseheads and the Wisconsin Idea related?	UW–Madison chemist, Stephan Babcock, developed a fat test for cheese, which encouraged struggling wheat farmers to change to dairy farming. This relationship between the state and the university helped to make Wisconsin “America’s Dairyland.” The Packers' famous cheesehead hats proudly symbolize this.	Application
4	Look back at the quote by Adlai Stevenson. What problems in policy making was the Wisconsin Idea trying to prevent?	If decisions are not based on reason, they could be based on, among other things, unsupported personal opinion, self-interests, interests of the party, superstition, public pressure, or tradition.	Analysis
5	In 1921, the UW Regents turned down private money for research, arguing that the gift would violate the principle of democratic state education. Is this consistent with the Wisconsin Idea?	The Regents saw their decision as protecting the Wisconsin Idea. If the UW took private research money, its efforts would be directed toward private interests and not the common good. The Regents also felt it was the state's responsibility to fund research at public universities.	Synthesis
6	The Regents' decision (see item 5) in 1921 did not hold. Today, more than half of the UW's budget comes from private and federal funding. What are some effects of this changing relationship?	(1) That the UW competes for, and wins, outside funds allows it to remain a top university; (2) the federal government plays a larger role in funding research for the common good; (3) the state feels less obligated to fund research when the UW gets outside money; and (4) research might be guided by private interests.	Evaluation



American Indian Powers of Governance: The Intersection of Federal, Tribal, and State Authority

FEDERAL SUPREMACY

American Indian tribes have the inherent power of self-governance, called sovereignty. However, federal law determines the degree to which tribes may exercise sovereignty. The federal government may regulate Indian tribes, tribal members, and tribal lands, or may grant states authority to regulate matters affecting Indians. The tribes retain only those powers of governance that the federal government has not assumed directly or granted to states. Along with the authority to govern Indians, the federal government has a trust responsibility to Indians to protect Indian lands and resources.

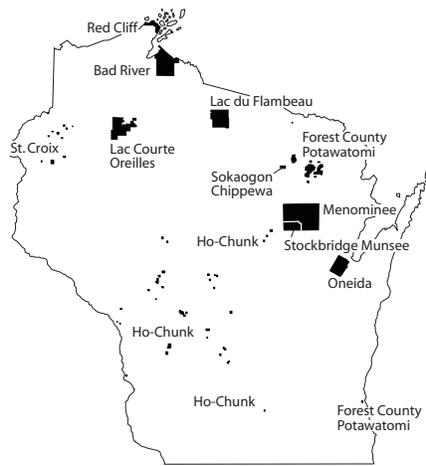
During the first century of U.S. nationhood, the federal government entered into treaties with tribes—to some extent treating the tribes like foreign nations—and enacted statutes to govern Indian affairs. In 1871, Congress effectively ended the president's power to enter into treaties with tribes, but provided that existing treaties remain valid unless specifically abrogated by federal statute.

TRIBES AND TRIBAL MEMBERSHIP

To exercise governing authority under federal law, a tribe must be recognized by the federal government. There are 11 federally recognized American Indian tribes in Wisconsin. Each tribe determines its own membership criteria. Common factors for determining membership include measurement of "Indian blood" (some tribes weigh maternal versus paternal links to the tribe differently) and whether a person's ancestors are on a specific membership or census list.

STATUS OF INDIAN LAND

Knowledge of the status of land is critical to understanding whether the federal government, a tribe, or the state has authority over matters affecting Indians on that land. Indian lands consist of reservations and off-reservation trust lands. Reservations are areas of land set aside by the federal government for specific tribes. The current mix of ownership of reservation land reflects the history of federal policy toward Indians.



Indian Reservations and Off-Reservation Trust Land, 2005

When reservations were first established, generally by treaty, the federal government usually prohibited alienation of reservation land. But in a major shift in policy, the federal government subsequently allotted pieces of reservation land to individual tribal members and transferred "surplus" reservation land to non-Indians. The intent of the allotment policy was to facilitate Indian self-sufficiency by

providing Indians individual ownership of land and to promote assimilation of Indians with non-Indians. However, the primary effect of the allotment policy was the transfer of large amounts of reservation land to non-Indians. In 1887, before the allotment policy was enacted, there were 138 million acres of reservation land. The federal government allotted about 40 million acres to individual Indians, and sold about 60 million acres as "surplus" land. Many individual Indians transferred their allotments, often because they could not pay property taxes. By the end of the allotment period in 1934, individual Indians owned a total of only 17.6 million acres of reservation land.

In 1934, the federal government passed the Indian Reorganization Act, ending the allotment policy and shifting federal policy toward protecting Indian lands. The federal government and tribes then began reacquiring reservation land. If certain requirements are met, the federal government now places land acquired by tribes, and sometimes by individual Indians, in trust for the tribe or individual. Reservation land therefore currently consists of land held in trust for the tribe, land held in trust for an individual tribal member, land owned by the tribe, land owned by a tribal member, and land owned by a non-tribal member. Tribes may also acquire off-reservation land and request that the federal government place it in trust. Trust land is generally tax exempt.

In Wisconsin, the status of reservation land varies greatly among the tribes. Much of the Menominee reservation is

tribal trust land, whereas much of the Oneida reservation is owned by non-Indians. The Ho-Chunk Nation does not have a consolidated reservation; instead the tribe has parcels of trust land in 14 counties at this writing.

RIGHTS AND PRIVILEGES OF INDIANS

As citizens of the United States and of the state in which they reside, Indians have the same rights and privileges under federal and state law as non-Indian citizens and are entitled to the same state and federal benefits. Indians may vote in federal and state elections. Indian children are entitled to attend public schools, and all reservation land is within a public school district. (Several tribes also operate tribal schools that Indian children may attend.) Indians are entitled to receive public assistance benefits. Tribes administer some federal and state public assistance programs for their members; for example, some tribes administer the Wisconsin Works, or "W-2," program. If a tribe does not administer a program, tribal members participate through a county department.

Indians are protected by the U.S. Constitution in dealings with federal, state, and local governments, but the U.S. Constitution does not apply to tribal government actions relating to tribal members. To provide basic individual rights to Indians, Congress passed the Indian Civil Rights Act of 1968, which applies most of the protections afforded under the Bill of Rights to tribal actions relating to tribal members.

Federal treaties and laws also provide some benefits to Indians that are not afforded to non-Indians. For example, under treaties signed in the 1800s, the Chippewa retained the right to hunt, fish, and gather on land that is now roughly the northern third of Wisconsin. (Although that right was not widely exercised until a federal court affirmed the treaty rights in 1983.)

STRUCTURE OF TRIBAL GOVERNMENTS

Each tribe establishes the structure of its government. All the tribes in Wisconsin have adopted constitutions. Each tribe has a legislative body. Some tribes have at-large legislative districts and some have geographic districts or specify that a certain number of legislative seats are for tribal members who live on the reservation. All of the tribes have an executive, such as a president or council chair, either chosen by the electorate or the legislative body. Some tribal constitutions provide that certain matters must be voted on by the tribal membership as a whole. Tribes often establish administrative departments, such as social services, health, child welfare, education, personnel, and gaming. Each tribe has its own court system, including trial courts and some form of appellate review. The type of cases heard by tribal courts varies by tribe.

TRIBAL GOVERNING AUTHORITY

Tribes may regulate relations between tribal members and matters concerning land owned by a tribe or held in trust for a tribe or an Indian. Tribes establish and enforce laws affecting health and welfare, inheritance, family law, child welfare, tribal elections, conservation and hunting, gaming, and, to a limited extent, criminal law. Tribes may operate law enforcement agencies. Tribes have the authority to tax their members. And tribes may enter into agreements with the federal, state, or local government, and with other tribes.

STATE REGULATORY AND ADJUDICATORY AUTHORITY

The state may regulate activities of Indians who are outside the boundaries of a reservation or off-reservation trust land just as it regulates the activities of non-Indians. However, on a reservation or on off-reservation trust land, the state may act only to the extent the federal government has granted the state authority. The existence of state regulatory authority frequently de-

pends on whether the subject of regulation is an Indian or non-Indian, the status of the land on which the activity takes place, and the relative weight of federal, state, and tribal interests at stake.

The federal government in 1953 granted the state of Wisconsin adjudicatory authority over both civil and criminal matters involving Indians that occur on all Indian lands, except on the Menominee reservation. On the Menominee reservation, criminal jurisdiction is divided among the federal government, the tribe, and the state, depending on whether the alleged perpetrator is an Indian, whether the victim is an Indian, and the nature of the crime. Even though the state adjudicatory authority is settled with respect to ten of the eleven tribes, jurisdictional disputes may still occur because a tribal court may have concurrent jurisdiction with the state. In one recent case that was ultimately heard by the Wisconsin Supreme Court, twice, a non-tribal member filed an action against his former employer, the Bad River Band of the Lake Superior Tribe of Chippewa, in state court, and the tribe filed an action in tribal court. The courts made conflicting rulings. Some tribal and state courts have since adopted procedures to avoid conflict when civil suits are filed in both state and tribal court.

SUMMARY

American Indian tribes have sovereignty, but the extent of their sovereignty is limited by federal law. Federal law also limits the state's power to regulate tribes and activities on reservations and on off-reservation trust land.

Governing Wisconsin: "American Indian Powers"

Study Questions

1	List the 11 federally recognized American Indian tribes in Wisconsin.	
2	(1) Explain the allotment policy. (2) What happened as a result of the Indian Reorganization Act of 1934?	
3	Would the Oneida tribe be allowed to increase the voting age, from 18 to 21, for its people? Explain.	
4	The state fish of Wisconsin is the muskie. If the state legislature decided to protect the muskie from being caught, would the Chippewa have to abide by this law? Why or why not?	
5	List some ways in which the federal government limits the sovereignty of American Indians in Wisconsin.	
6	How should the federal government deal with Indian sovereignty? Identify five factors that the federal government should consider in crafting policy with respect to Indians.	

Governing Wisconsin: “American Indian Powers”

Study Questions in the Cognitive Domain

1	List the 11 federally recognized American Indian tribes in Wisconsin.	Ho-Chunk, Forest County Potawatomi, Oneida, Stockbridge Munsee, Menominee, Sokaogon Chippewa, Lac du Flambeau, Lac Courte Oreilles, Bad River, Red Cliff, and St. Croix.	Cognition
2	(1) Explain the allotment policy. (2) What happened as a result of the Indian Reorganization Act of 1934?	Under the allotment policy, the federal government could sell off “surplus” reservation land to non-Indians. In 1934, the federal government passed the Indian Reorganization Act which stopped this policy and began helping tribes to reacquire lost land.	Comprehension
3	Would the Oneida tribe be allowed to increase the voting age, from 18 to 21, for its people? Explain.	The members of the Oneida tribe have the same rights as non-Oneida citizens of the United States, so the tribe could not change the voting age for local, state, and federal elections. The tribe may, however, set a different voting age for its tribal elections.	Application
4	The state fish of Wisconsin is the muskie. If the state legislature decided to protect the muskie from being caught, would the Chippewa have to abide by this law? Why or why not?	No. In 1983, after years of dispute, a federal court ruled that an 1837 treaty signed by the Chippewa and the federal government gave the Chippewa the right to hunt and fish on their original tribal lands (22,400 square miles of northeastern Wisconsin) regardless of state and local regulations.	Analysis
5	List some ways in which the federal government limits the sovereignty of American Indians in Wisconsin.	(1) The federal government must recognize the tribe for it to receive sovereignty, and the federal government can revoke this status. (2) Tribal land has been trusted to the tribe by the federal government, and the tribe must get federal approval to acquire more land in trust. (3) Federal courts have jurisdiction in some criminal and civil cases.	Synthesis
6	How should the federal government deal with Indian sovereignty? Identify five factors that the federal government should consider in crafting policy with respect to Indians.	A list of factors may include tribal independence and self-sufficiency; integration of Indians and non-Indians; historic claims to land; preservation of Indian identity; honoring treaties; government’s trust responsibility to Indians; clarity as to who has governing authority and judicial power; impact of policies on non-Indians.	Evaluation



Wisconsin's Constitutional Conventions

ACHIEVING STATEHOOD

Whoever said it would be easy to become a state? The Northwest Ordinance of 1787 established the criteria under which a territory could achieve full statehood: a territory with at least 60,000 inhabitants could, after passing its own constitution, apply to become a state. By 1845, the territory that would become Wisconsin easily surpassed the population requirement, with around 155,000 inhabitants. Passing the Wisconsin Constitution, however, would prove more difficult.

FIRST CONSTITUTIONAL CONVENTION

Delegates. In October 1846, Wisconsin territory Governor Henry Dodge convened the first meeting of delegates who were to draft the Wisconsin Constitution. Democrats made up a large majority of the group gathered: of 121 delegates, 103 were Democrats and 18 were Whigs. Within the Democratic Party, however, there were vast ideological differences. Many of the Democratic delegates, known as the “Barnburners,” were socially progressive and wanted the new constitution to encompass sweeping social and economic reforms. However, a vocal minority, known as the “Hunkers,” was more conservative, and determined to keep the more controversial economic and social reforms out of the constitution. The stage was set for a showdown.

Progressive social and economic agenda. Much of the Wisconsin Constitution drafted at the first constitutional convention was noncontroversial. The Wisconsin delegation based its bill of rights on the federal Bill of Rights, but added provisions to ban slavery in Wisconsin and to afford

immigrants in the state the same property rights enjoyed by U.S. citizens. Further, the Wisconsin Constitution featured a relatively weak executive branch, with its governor elected to two-year terms, and a relatively weak legislature that was subject to an executive veto of the laws it passed. The legislature could override a veto with a two-thirds vote in each house—a compromise that mirrors the federal system. After some debate, the Barnburners successfully added a provision that called for state judges to be elected by the people and not appointed by either the governor or the legislature. Other, more contentious issues lay ahead.

Anti-banking, pro-consumer articles.

At the time Wisconsin was poised to become a state, many of the more progressive-minded delegates feared that the more well-established eastern states would exert undue influence on the state’s business and economic affairs. The eastern states had capital, strong markets, and well-established manufacturers upon which territories like Wisconsin depended. To minimize the potential influence of the eastern states and capitalist ventures in general, the Barnburners proposed that the constitution include sweeping consumer protections. The most controversial of these was an anti-banking article.

The anti-banking article prohibited the legislature from creating or approving any bank in Wisconsin, banned the business of banking, and called for all paper money to be quickly phased out of use in the state.

The Barnburners believed that an economy based on silver and gold offered the most secure economy for consumers and placed the legislature beyond the potentially corrupting influence of the banking industry. The Whigs and Hunkers vehemently disagreed, and although the anti-banking articles passed by a 79–27 vote, efforts to water down the proposal began to surface almost immediately. None of the efforts passed, but

In March 1848, Wisconsin voters approved the second proposed Wisconsin Constitution, 72–28 percent. Wisconsin became the thirtieth state in the Union on May 19, 1848.

by the time the proposed constitution was sent for voter approval, the anti-banking article had lost much favor, even within the Democratic Party.

Homestead exemption. Next on the Barnburners’ agenda was a provision designed to protect consumers from losing everything to creditors in the event of bankruptcy or other financial trouble. A homestead exemption would protect up to \$1,000 of equity in a family’s home from the reach of creditors. Despite strong opposition from delegates who believed that a homestead exemption would violate contract law and give refuge to “scoundrels” who sought to defraud creditors, the homestead exemption article passed by a vote of 68–27.

Married women’s property rights. Closely aligned with the homestead exemption was an article that would allow a married woman to hold and control her own property, and to protect her property from her

husband's creditors. Opponents cited the same fears that the provision would violate contract law, harm creditors, and encourage fraud. In addition, opponents argued that allowing married women to hold and control property would violate the sanctity of a husband's primacy in marriage and debase women by subjecting them to the male domain of commerce. Despite these arguments, the married women's property article passed by a vote of 58–37.

African American voting rights. The question of whether African Americans living in Wisconsin should be allowed to vote stirred much controversy among the delegates. Even among the Barnburners, the issue was contentious, with only some of the most progressive delegates advocating suffrage for African Americans. Opponents of suffrage for this population were vocal and insisted that putting an article in the constitution allowing African Americans to vote would doom the constitution to failure when put to a popular vote.

After much debate, a delegate proposed a compromise: an article allowing African Americans to vote in Wisconsin would be submitted to a popular vote separately from the rest of the proposed constitution. In the closest vote held at the constitutional convention, the compromise passed, 53–46.

The people of Wisconsin vote. In December 1846, the constitutional convention concluded, and the proposed constitution was submitted to a popular vote. If ratified by the people, the constitution would become the law of the land and Wisconsin could become a full state. Over the next few months, proponents of the constitution campaigned hard for passage. Despite their efforts, in April 1847, the people rejected the proposed constitution, 59–41 percent. The separate article on suffrage for African Americans fared even worse, losing 66–34 percent.

SECOND CONSTITUTIONAL CONVENTION

Delegates. In October 1847, Wisconsin territory Governor Dodge called together a second constitutional convention. The delegates this time were fewer in number and more evenly split among party lines: 43 Democrats, 25 Whigs, and 3 independents.

Areas of controversy and defeat of first constitution. The delegates agreed that most of the articles of the proposed constitution were supported by the people and acknowledged that the articles that had generated the most controversy during the first constitutional convention were responsible, in large part, for the defeat of the constitution. Thus the delegates at the second constitutional convention took a hard look at the anti-banking article, the homestead exemption, married women's property rights, and the issue of suffrage for African Americans.

Anti-banking, pro-consumer articles. A majority of the delegates to the second constitutional convention favored at least some sort of banking system in Wisconsin that did not rely entirely on silver and gold. The delegates could not agree, however, on the details of what kind of banking would be allowed or what would be a proper amount of oversight of the banks. After more than a month of discussion, the delegates agreed on a compromise: at the time the constitution was put to a popular vote, a separate ballot would ask the people to vote "bank" or "no bank." If the popular vote supported "bank," then the legislature could enact regulatory banking laws, but no banking law would go into effect until it was ratified by voters in a referendum.

Homestead exemption. The homestead exemption, another Barnburner favorite, lost some favor by the time the second constitutional convention convened. Rather than write a specific dollar amount into the constitution, a majority of the delegates favored an article that required the legislature to

draft a homestead exemption but left the details to the legislators. In the end, the second constitution contained an article that required the legislature to protect the "necessary comforts of life" by exempting them from seizure by creditors.

Married women's property rights. Many delegates perceived this as an issue so divisive that, if included in the second constitution, voters would ensure that this document also failed. The second constitution contained no provisions regarding property rights for married women.

African American voting rights. Despite its lopsided defeat at the hands of voters the previous year, many Barnburners continued to press for suffrage for African Americans. After much debate, the delegates passed a compromise that would authorize the legislature to allow African Americans to vote, subject to a popular referendum.

The people of Wisconsin vote again. In February 1848, the second constitutional convention concluded, and again a proposed constitution was sent forth for public approval or rejection. Unlike after the first constitutional convention, when some of the delegates publicly denounced their own work, the delegates to the second constitutional convention were proud of the document and actively sought its ratification. There was a general sense that the second constitutional convention had ironed out the wrinkles that plagued the first. Wisconsin voters approved the proposed Wisconsin Constitution, 72–28 percent, in March 1848. On May 19, 1848, Wisconsin became the thirtieth state in the Union. Since then, the Wisconsin Constitution has been amended over 100 times, but the original constitution is still in use.

By Peggy Hurley, Legislative Attorney
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 23, September 2007

Governing Wisconsin: "Wisconsin's Constitutional Conventions"

Study Questions

1	Describe the difference between the "Hunkers" and the "Barnburners."	
2	When the second draft of the constitution was proposed in 1848, what change did it make from the first draft regarding banking laws?	
3	Why would the Barnburners prefer elected judges and the Hunkers prefer appointed judges?	
4	How would you characterize the general difference between the proposed constitution of 1846 and the 1848 proposal?	
5	If the first proposed constitution had been adopted in 1846, what effect would the non-banking clause have had on Wisconsin's economy?	
6	Does the constitution of 1848 serve the state well?	

Governing Wisconsin: "Wisconsin's Constitutional Conventions"

Study Questions in the Cognitive Domain

1	Describe the difference between the “Hunkers” and the “Barnburners.”	Barnburners were social progressives who promoted sweeping social and economic reforms. Hunkers made up a conservative faction that preferred a constitution that did not attempt to change social norms.	Cognition
2	When the second draft of the constitution was proposed in 1848, what change did it make from the first draft regarding banking laws?	In 1846, the first proposed constitution outlawed banking. But, in 1848, the second proposed constitution allowed the people to vote on whether the state would allow banks.	Comprehension
3	Why would the Barnburners prefer elected judges and the Hunkers prefer appointed judges?	Elected judges are chosen directly by the people, while appointed judges may tend to be more conservative or elitist.	Application
4	How would you characterize the general difference between the proposed constitution of 1846 and the 1848 proposal?	The second proposal is generally more conservative, with less protection for civil rights, and exhibits less fear of the eastern establishment.	Analysis
5	If the first proposed constitution had been adopted in 1846, what effect would the non-banking clause have had on Wisconsin’s economy?	The economy would have remained partly cash-based and partly barter-based, and would have developed slowly. It is likely the constitution would have been amended to permit banking.	Synthesis
6	Does the constitution of 1848 serve the state well?	Yes. Although it has been amended many times, the core of the document is intact and provides for a stable, yet responsive, state government.	Evaluation



Amending the Wisconsin Constitution

A primary requirement for a territory to be admitted into the United States of America as a “state” is that the territory must have adopted a constitution. In 1848, the people of Wisconsin adopted their constitution, and the state was admitted to the union later that year.

NATURE OF A CONSTITUTION

The constitution is the “organic” law of the state because it organizes the government and establishes the great principles upon which a state or nation is founded. A constitution, like the foundation of a house, determines the basic shape, but not the details, of that which stands upon it.

A constitution differs from other laws of the state because it creates more general, timeless mandates and restrictions than do statutes, and the legislature cannot change it without the people’s approval. Unlike statutes, the constitution broadly sets the duties of the legislature, the governor, and the courts and limits their powers. The constitution binds all parts of the government and protects the rights of the people.

DIFFERENCES BETWEEN STATE AND FEDERAL CONSTITUTIONS

Because the United States was conceived as a federation of independent states, the method of amending the U.S. Constitution requires that three-fourths of the states ratify any amendment proposed by Congress. State legislatures, not the people, vote on the

ratification of U.S. constitutional amendments.

The U.S. Constitution represents the states granting limited powers to the federal government, while state constitutions represent the limit of powers that the people have granted to their state governments.

Unlike the federal Constitution, no part of the Wisconsin Constitution is exempt from amendments. States may amend their constitutions to suit their needs, but the supremacy clause of the U.S. Constitution provides that if federal law conflicts with state law, including the state constitution, the state law has no effect.

THE AMENDMENT PROCESS

The Wisconsin Constitution establishes the exclusive procedure for amending the constitution. Only the people can amend the constitution, either by convention or by voting on proposed amendments, passed by two different legislatures. The Wisconsin Constitution does not permit ballot initiatives to amend the constitution.

The legislature can initiate a constitutional amendment by passing a joint resolution that has originated in either house, with a majority vote of members in both houses. The legislature must record the vote in its journals. This is referred to as “first consideration.”

If the proposal passes, the secretary of state publishes it for three months in the official state newspaper before the next general election for choosing a legislature.

The next legislature can consider and debate the amendment but cannot change the amendment. This is called “second consideration.” If the next legislature amends the proposal, it reverts to first consideration and the process starts over. On second consideration, the resolution must contain a complete and precise statement of the question that will appear on the ballot.

If the second legislature agrees to the proposal by a majority vote in each house, the secretary of state will then forward the proposal to the election officials of each county, who place the proposed amendment on the ballot at a general election.

The ballot question must fairly state the effect of the proposed amendment, but if more than one amendment is proposed, the ballot must allow the people to vote on each amendment separately. Closely related amendments with a single purpose may be submitted as a single ballot question. If the electorate approves the proposal (by a simple majority), the Government Accountability Board certifies that the people have approved and ratified it and the amendment becomes part of the constitution.

The Ballot Question and Its Effect

For the constitutional amendment approved by the people in 2008, the ballot question appeared as follows:

Partial Veto. Shall section 10 (1) (c) of article V of the constitution be amended to prohibit the governor, in exercising his or her partial veto authority, from creating a new sentence by combining parts of two or more sentences of the enrolled bill?

As a result of the election, the constitution was amended by inserting the underlined language:

Article V, Section 10 (1) (c) 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 people of Wisconsin amended the constitution 142 times in the first 160 years of statehood. Some of the notable amendments were the granting of home rule to cities and allowing gambling in the state. The most recent amendment to the constitution limits the governor's line-item veto power. It prohibits vetoes that would make a new sentence out of parts of two or more sentences. The 2005 and 2007 legislatures proposed this amendment and the voters approved it in 2008.

Since statehood began, the people have rejected many proposed amendments at the ballot box. Some of the defeated proposals

were later proposed and passed. For example, the concept of home rule for cities was defeated in 1914, but the legislature proposed it again and the people approved it in 1924.

Number of Ballot Questions Proposing Constitutional Amendments in Wisconsin

1849–1888	20
1889–1928	42
1929–1968	45
1969–2008	<u>67</u>
Total	174

The governor has no formal role in passing constitutional amendments, although he or she may use the "bully pulpit" to make public statements about whether a particular amendment should pass.

The amendment process usually takes about three years, but it has been done in nine months. The process may seem lengthy and difficult, but it protects the rights of the minority. The difficult nature of the amendment process has a side effect of making the Wisconsin Supreme Court's interpretation of the existing constitution even more important.

Although the constitution sets the basic rules for the amendment process, the legislature has supplied more detailed procedural requirements in the statutes and in its joint rules. For example, the statutes contain the requirement that upon second consideration, the resolution must contain the exact language that will appear on the ballot. And the joint rules require that the full text of the proposal be printed in the session laws. All pending proposals are also printed in the Wisconsin Statutes. Official opinions of the attorney general have offered guidance, for example, by

describing how the secretary of state should publish the proposal.

JUDICIAL REVIEW

The Wisconsin Supreme Court has supplied clarification for the amendment process. The court has invalidated three proposed constitutional amendments for procedural reasons. In 1909, the legislature failed to place the text of a proposed amendment in its journals, making it impossible to know exactly what the legislature had passed. In 1919, the legislature did not vote on the proposed amendment, but forwarded it to the secretary of state to have it placed on the ballot. And in 1953, the secretary of state did not follow the prescribed procedure for giving notice to the electorate that a constitutional amendment would be on the ballot. In making these decisions, the court strictly applied the language in the constitution relating to amendments.

CONVENTION

Like the U.S. Constitution, the Wisconsin Constitution contains an unused (to date) provision for authorizing a constitutional convention. In Wisconsin, a constitutional convention could be called if the legislature passes a resolution proposing a convention, which the people would vote for or against. A convention could modify all or part of the existing constitution.

The provisions for amending the Wisconsin Constitution were included in the original draft of the document in 1848 and have never been amended.

By Steve Miller, Chief
Published by the LRB, Madison WI
<http://www.legis.wi.gov/lrb/GW>
No. 26, April 2008

Governing Wisconsin: "Amending the Wisconsin Constitution"

Study Questions

1	What are the two methods by which the Wisconsin Constitution can be amended?	
2	How does a constitution differ from statutes?	
3	List ways that the legislature and others have given more detail to the amendment process than is spelled out in the Wisconsin Constitution. What is the theme of these additional requirements?	
4	See the box on "Number of Ballot Questions." What has been the trend in the number of amendments proposed on the ballot in the past 160 years?	
5	If the governor had a formal role in the constitutional amendment process, what would it likely be?	
6	Is the amendment process too difficult? What are the pros and cons of having a difficult process?	

Governing Wisconsin: “Amending the Wisconsin Constitution”

Study Questions in the Cognitive Domain

1	What are the two methods by which the Wisconsin Constitution can be amended?	The Wisconsin Constitution can be amended by a convention authorized by the people or by a ballot proposal that has passed two legislatures.	Cognition
2	How does a constitution differ from statutes?	A constitution sets the basic organization of the government and spells out rights of the people, which the government cannot limit. The Wisconsin Constitution can be amended only by the people.	Comprehension
3	List ways that the legislature and others have given more detail to the amendment process than is spelled out in the Wisconsin Constitution. What is the theme of these additional requirements?	1. The ballot question must be included in the resolution. 2. The text of the proposal must be printed in the session laws. 3. The attorney general has given guidelines for the publication process. All of these additional details are designed to give voters better notice of the proposal.	Application
4	See the box on “Number of Ballot Questions.” What has been the trend in the number of amendments proposed on the ballot in the past 160 years?	The number of amendments proposed has greatly increased from the early days of statehood to the most recent 40 years.	Analysis
5	If the governor had a formal role in the constitutional amendment process, what would it likely be?	The governor could have the exclusive right to propose amendments to the legislature, or could have veto power over proposals passed by the legislature.	Synthesis
6	Is the amendment process too difficult? What are the pros and cons of having a difficult process?	Although the amendment process has many steps involving many participants, and is time consuming, it protects the rights of minorities and ensures that constitutional amendments will be well-considered.	Evaluation

Part III

Legislative Branch

Bicameralism

Legislative Rules Part I

Legislative Rules Part II

Redistricting

Who Are Wisconsin

Legislators?





Bicameralism: The Two Houses of the Legislature and How They Differ

WHAT IS BICAMERALISM?

Bicameralism is a political arrangement in which the legislative branch of government is divided into two separate houses, each with a distinct leadership, membership, and terms of office. Bicameralism is a defining feature of the American political system and is found at both the federal and state levels. Currently, 49 states have bicameral legislatures; the exception is Nebraska.

BICAMERALISM IN THE AMERICAN SYSTEM OF GOVERNMENT

Bicameralism is part of the system of checks and balances that characterizes the American political system. The design of the federal government consists in the creation of political institutions and processes that make it difficult for any one majority group or faction to unite and impose its will on a minority. The Founding Fathers consciously designed a form of government in which power was divided among different branches of government, and within the legislative branch power was further divided between a separate senate and house of representatives. “Ambition must be made to counteract ambition,” said James Madison in *Federalist*, No. 51.

Indeed, the key rationale for the Founding Fathers in creating a bicameral legislature was to align the interests of the members of each house of the legislature with the power of that house and to use that power as a check on the political ambitions of the other house. As Madison put it in *Federalist*, No. 62, the existence of two separate houses within the legislature “doubles the security to the people by requiring the concurrence of two distinct bodies in schemes of usurpation or perfidy, where the ambition or corruption of one would otherwise be sufficient.” The promise of bicameralism is that by making the operation of government more difficult and cumbersome the rights of the people are better preserved.

BICAMERALISM IN WISCONSIN

Following the federal government model, the Wisconsin Constitution divides legislative power between a senate and an assembly. Originally, in Wisconsin, senators served for two years, while representatives to the assembly served for one year. In 1881, the Wisconsin Constitution was amended to provide for four-year terms for senators and two-year terms for representatives. The

Wisconsin Constitution also provides that membership of the assembly may not be less than 54 nor more than 100 representatives and that the number of senators may not be more than one-third nor less than one-fourth of the membership of the assembly. There are currently 99 representatives and 33 senators.

Party competition. In Wisconsin, each senate district consists of three assembly districts. As a result, every Wisconsin resident is represented by two members of the legislature—one in the senate, the other in the assembly. It is not uncommon for the same resident to be represented in the legislature by members of different political parties. In this regard, bicameralism can be a force for moderation. Bicameralism allows for political party competition between the different houses of the legislature, not simply between executive and legislative branches of government or only within one house of the legislature. This is especially the case if one political party is in the majority in one house and another political party is in the majority in the other house. Significantly, it is competition between the houses in this situation that makes political party policy differences more salient to the public and makes for a responsible electorate in which

voters can rationally choose among competing political parties based on clear public policy differences.

Political stability. Bicameralism diffuses political power among different political institutions, thereby making it difficult for any one interest group or faction to dictate its policy preferences in the lawmaking process. In Wisconsin, in order for a law to be enacted, it is necessary that a majority of the membership of each house of the legislature pass the same legislation. If Wisconsin had a unicameral legislature, an interest group would only have to direct its efforts toward winning majority support in one house. But a bicameral legislature requires that an interest group persuade a majority of members in two different houses to pass the same legislation. Bicameralism not only makes the enactment of laws more difficult and time-consuming, but also moderates the substance of the legislation because different political parties may be a majority in each of the houses and must accommodate each other. All things equal, bicameralism promotes compromise and stability.

Political participation. Bicameralism fosters citizen access to, and participation in, the lawmaking process. Typically, in order for a bill to become law, the bill upon introduction is first referred to a standing committee in its house of origin. Public hearings are conducted on the bill and, if a majority of the committee approves the bill in executive session, it is reported out of committee and may then be scheduled for a vote by the full house. If the bill is passed by one house, it is then messaged to the other house and, as is often the

case, there the process repeats itself with referral to a standing committee in the second house.

Political participation is invariably increased in a bicameral legislature because citizens have an opportunity to attend and participate in public hearings on the legislation in both houses, as well as to lobby members in both houses who serve on the two standing committees. This is very important for citizens or groups who believe that they may be adversely affected by certain legislation in that they can make their case, as it were, before two standing committees in two different houses. Bicameralism will not prevent the enactment of laws clearly supported by majorities in both houses of the legislature, but it can ensure that majorities in both houses are better apprised of the public policy reasons against enactment.

Political knowledge. Bicameralism increases the level of political expertise and knowledge in the legislature. The committee system in each house of the legislature and the operation of certain joint committees that have jurisdiction over given public policy areas ensure that senators and representatives to the assembly will have public policy expertise in overlapping areas.

This is important for two reasons. First, each house will develop experts among its membership in distinct public policy areas, and these experts will chair or serve on committees to which legislation is referred. Policy expertise can therefore be parceled out among the members of a house. Second, the experts in each of the two houses may have competing partisan visions or substantive

approaches in dealing with the same public policy area or problem. This ensures that no single approach will necessarily dominate consideration of a public policy issue in the legislature. By fostering expertise in more than one house of the legislature, bicameralism can contribute to more informed legislation.

SUMMARY

Bicameralism is a historic feature of the American political system and is incorporated into the constitutional foundation of the Wisconsin system of government. Bicameralism manifests itself in a separate senate and assembly sharing legislative power, each with a distinct leadership, membership, and terms of office. Bicameralism fosters political party competition, provides for political stability, increases political participation, and makes for more informed lawmaking. In every way, the promise of bicameralism is realized in Wisconsin.

Governing Wisconsin: "Bicameralism"

Study Questions

1	Name the houses of the Wisconsin Legislature. How many members currently make up each house?	
2	How many people represent you in the state legislature? How many represent you in Congress?	
3	What opportunities do citizens have to participate in the legislative process?	
4	The essay says, "bicameralism can be a force for moderation." How can bicameralism promote moderation?	
5	If the legislature consisted of a single house (unicameral), would this strengthen or weaken the powers of the governor?	
6	Imagine the governor wanted to pass a law raising the driving age from 16 to 18. How would this idea move through the legislature to become a law? What obstacles might occur along the way?	

Governing Wisconsin: "Bicameralism"

Study Questions in the Cognitive Domain

1	Name the houses of the Wisconsin Legislature. How many members currently make up each house?	The houses of the state legislature are the senate, made up of 33 senators, and the assembly, made up of 99 representatives.	Cognition
2	How many people represent you in the state legislature? How many represent you in Congress?	Two people represent you in the Wisconsin Legislature: one state senator and one state representative. Three people represent you in Congress: two U.S. senators and one U.S. representative.	Comprehension
3	What opportunities do citizens have to participate in the legislative process?	Citizens can attend public hearings before standing committees in each house, they can lobby committee members, and they can write or call their representatives before major votes.	Application
4	The essay says, "bicameralism can be a force for moderation." How can bicameralism promote moderation?	Before enactment, each legislative proposal must pass both houses; if each house is run by a different political party, the houses must compromise with each other to pass laws. This usually means neither party gets exactly what it wants, and proposals become more moderate.	Analysis
5	If the legislature consisted of a single house (unicameral), would this strengthen or weaken the powers of the governor?	On one hand, a unicameral legislature would weaken the governor's power because it would be easier to override a veto; the override would need only to pass in one house. On the other hand, if the governor and the unicameral legislature were the same party, it would be easier to pass significant changes to state policy.	Synthesis
6	Imagine the governor wanted to pass a law raising the driving age from 16 to 18. How would this idea move through the legislature to become a law? What obstacles might occur along the way?	The governor presents the bill to a house, then the bill goes to committee, to floor vote, and to the next house, where it goes through the same process, and then back to the governor for signing. The bill might be opposed by retailers who rely on teenage labor and by teenagers who want to maintain their driving privileges.	Evaluation



Legislative Rules: Part One A Brief History of Parliamentary Law

INTRODUCTION

The framers of the Wisconsin Constitution granted the members of the assembly and the senate the power to create the legislative rules that guide their work and decorum. According to article IV, section 8, of the Wisconsin Constitution, each house of the legislature has the power to “determine the rules of its own proceedings.”

Legislative rules are based on English parliamentary law. Their content, therefore, is for the most part well established. Each biennial session, legislators rely on historical precedent to determine the rules that will guide their future. Parliamentary law is a part of the historical precedent for legislative rules.

Parliamentary law is the historic compilation of English government organizational procedures. This compilation consists of the customs, both written and unwritten, that structure peaceful and just assemblies. In the United States, a definitive written source of these customs is *Jefferson’s Manual*. *Jefferson’s Manual*, written by Thomas Jefferson and published in 1801, was created to ensure that the legislature was a fair forum.

ENGLISH PARLIAMENTARY LAW

The root of government as we know it and the source of legislative rules began with the earliest-known European political unit, the

tribe. Anglo-Saxon tribes began their migration to the island of Britain in the fifth century. In these tribes, assemblies of elders or fighting men administered justice and made decisions on matters of importance. Over the course of approximately 200 years these assemblies became known as “Shire Courts.”

Shire Courts were an instrument of local government. Local governments were subject to supervision by the king. The king, in turn, held national assemblies. These national assemblies advised the crown and were known as the “witan” or “witenagemot.” The witenagemot was composed of court officials: major landholders, elder men, king’s officers, bishops, and abbots. The witenagemot was not a democratic institution, but the king relied on its consent for his authority.

The Norman invasion of 1066 changed the administrative power of Britain but did not change the nature of the witenagemot, only its name. The general assembly of court officials became known as the Great Council. Norman kings of the eleventh century assembled Great Councils of English barons to offer advice on matters of the kingdom.

The word “parliament” was first used during the twelfth century in

England to describe any important meeting held for the purpose of discussion. The word “parliament” was first applied to the Great Council in the time of Henry III (1216–1272). The Parliaments gave the barons the opportunity to express their opinions about the “state of the realm” and the business of “king and kingdom.”

Members of these early parliaments found that their discussions, to be fruitful, needed to be orderly and

It is very material that order, decency and regularity be preserved in the dignified public body.

Thomas Jefferson in the preface to *Jefferson’s Manual*.

respectful. Parliamentary custom established that orderly and respectful discussions required procedures and rules. Minority members of early parliaments, in particular, discovered that, in order for their interests to be protected and their voices to be heard, a uniform system of procedural rules or parliamentary law needed to be adopted.

Over time, parliamentary customs and rules became more uniform. The first established written source of parliamentary law was the *Journal of the House of Commons* written by the clerk of the house in 1547. The *Journal* was given the

status of an official document of the Commons in 1623. This was the first written source of precedent on matters of parliamentary procedure.

EXAMPLES OF PARLIAMENTARY LAW

Examples from the *Journal of the House of Commons* illustrate the organizational nature of parliamentary law. The 1604 rule regarding decorum and avoidance of personalities in debate reads, "He that digresseth from the Matter to fall upon the Person, ought to be suppressed by the Speaker... No reviling or nipping words must be used."

The speaker, or presiding officer, plays an important part in keeping the assembly orderly. This includes confining the debate to the point at issue and keeping the debate civil. A 1610 rule reads, "[A] Member speaking, and his speech, seeming impertinent, and there being much hissing and spitting, it was conceived for a Rule, that Mr. Speaker may stay impertinent Speeches."

These rules illustrate the necessity and continued importance of legislative rules. Although hissing and spitting may no longer be an issue in government, keeping debate impersonal and applicable to the issue at hand is central to decorum of the legislature, and the speaker continues to be central in maintaining this decorum.

PARLIAMENTARY LAW IN AMERICA

English colonists brought the seeds of parliamentary law with them to the New World. Each colony looked to parliamentary law as it established its individual charter. The colonists used parliamentary procedure during meetings between colonies to address issues of com-

mon interest. Once the colonies had secured their freedom, and as democracy began to take root, Thomas Jefferson, as president of the senate (1797–1801), recognized the need to compile similar procedural rules to assist in the day-to-day workings of the new legislature.

For guidance, Jefferson studied English documents on parliamentary law. An important source, *Precedents of Proceedings in the House of Commons*, was published in 1781 by John Hatsell, a clerk of the House of Commons. This publication is considered the best authority on eighteenth century parliamentary procedure and was of great use to Jefferson.

Jefferson determined, by studying parliamentary law, that effective government required certain basic elements. These basic elements included a presiding officer, a recording officer, and "some established rules or customs." Jefferson concluded that the established rules and customs of English parliamentary proceedings, though "crude, multiform and embarrassing" were "constantly advancing toward uniformity and accuracy."

Using the wise and ever advancing uniformity and accuracy of English parliamentary law as an example, Jefferson established legislative rules for the senate. This rule compilation was published in 1801 as *Manual of Parliamentary Practice*, commonly known as *Jefferson's Manual*. Jefferson acknowledged that in compiling these rules he had,

begun a sketch, which those who come after me will successively correct and fill up, till a code of rules shall be formed for the use of the Senate, the effects of

which may be accuracy in business, economy of time, order, uniformity and impartiality.

Although published over 200 years ago, *Jefferson's Manual* continues to be a resource for the practice and procedure of today's federal and state legislatures, including Wisconsin's legislature. Federal and state governments use *Jefferson's Manual* to help create and interpret legislative rules which guide and ensure fair government practice.

CONTINUED IMPORTANCE

English Parliament, Thomas Jefferson, and others have acknowledged the importance of rules to help create and maintain an orderly, respectful, and just assembly.

Publications that have relied and expanded on English parliamentary law and *Jefferson's Manual* include Paul Mason's *Mason's Manual of Legislative Procedure*, a timely resource well used by governments, and General Henry M. Robert's *Roberts Rules*, published to assist non-governmental assemblies with order, decorum, and fairness.

As prefaced in *Jefferson's Manual*, "It is very material that order, decency and regularity be preserved in the dignified public body." The precedence of parliamentary law helps to ensure that government assemblies generally, and the Wisconsin Legislature specifically, can achieve order, decency, regularity, and dignity.

Governing Wisconsin: "Parliamentary Law"

Study Questions

1	What is the source of modern legislative rules?	
2	How do legislative rules and parliamentary law assist a diverse group to accomplish a common goal?	
3	How would the presiding officer of an assembly use rules to maintain order if one member called another member a name?	
4	In ruling on questions of rule interpretation or parliamentary procedure, why does the presiding officer follow precedent?	
5	In what way would parliamentary rules be modified regarding the use of cell phones?	
6	Would parliamentary rules work better if the legislature did not have authority to suspend or change them? Why or why not?	

Governing Wisconsin: "Parliamentary Law"

Study Questions in the Cognitive Domain

1	What is the source of modern legislative rules?	The rules are based on English parliamentary law.	Cognition
2	How do legislative rules and parliamentary law assist a diverse group to accomplish a common goal?	Rules help the group stay focused on relevant issues. The rules provide for certain minority rights to ensure that all views will be considered before the group reaches a decision.	Comprehension
3	How would the presiding officer of an assembly use rules to maintain order if one member called another member a name?	The presiding officer would rule the member who was name-calling out of order. Personal attacks, such as name-calling, are irrelevant to the debate, interfere with rational decision making, and cause unnecessary disruption.	Application
4	In ruling on questions of rule interpretation or parliamentary procedure, why does the presiding officer follow precedent?	Following precedent increases the chances that a decision will be correct. Staying consistent with the logic of older rulings gives the decision more authority and makes it less likely that a ruling will be based on personalities or other preferences of the presiding officer.	Analysis
5	In what way would parliamentary rules be modified regarding the use of cell phones?	Cell phone use would be prohibited during meetings because talking on a cell phone distracts a member from paying attention to the proceedings and shows disrespect for others present.	Synthesis
6	Would parliamentary rules work better if the legislature did not have authority to suspend or change them? Why or why not?	No. Although a legislative body closely follows the established rules, it can suspend the rules when the body has reached general agreement on an issue to speed up the proceedings. The body can change the rules to better fit its situation.	Evaluation



Legislative Rules: Part Two Wisconsin Legislative Rules

As with any large organization, the Wisconsin Legislature depends on rules to organize and facilitate its work. These rules are called “legislative rules.” Legislative rules structure government procedure. The content of the rules is for the most part well established. Each biennium legislators look to the past to determine the rules that will guide their future.

CONTINUITY

Most legislative rules apply continuously from one legislative session to the next. Assembly Rule 92 and Senate Rule 92 specify this continuity. Assembly Rule 92 reads, “The rules of the assembly remain in effect until amended or rescinded by the assembly. At the beginning of a new biennial session, the rules of the assembly in effect at the conclusion of the preceding regular session remain in force until superseded by assembly rules adopted in the new session of the legislature.” Some legislative rules are set by the state constitution, but most are created by legislative resolutions.

Sometimes the legislature has reason to create, amend, or rescind the rules. Rule changes are made by joint resolution or resolution. Rules created by joint resolution apply to both houses. Rules created by resolution apply to the house that created them.

JOINT RESOLUTION

Joint legislative rules are created either by senate joint resolution, if the rule proposal is offered or introduced in the senate, or by assembly joint resolution, if the rule proposal is offered or introduced in the assembly. The governor does not approve or veto joint resolutions. Generally, joint resolutions have no legal effect; they simply express the resolve or will of both houses.

Most of the Joint Rules are procedural in nature and concern how each house will conduct business among its members and with the other house. The Joint Rules include definitions and procedures for amending or rescinding the rules, address joint committee activities, and outline clerical and proposal procedures.

RESOLUTION

Each house, by resolution, may create, amend, or rescind rules that govern and are of interest to only that house. Senate rules are created by senate resolution; Assembly rules are created by assembly resolution. As with joint resolutions, resolutions do not require approval of the governor and have no legal effect. They merely express the resolve or will of an

individual house. Generally, resolutions regarding legislative rules address the organization and procedures for each house.

OFFICERS, CALENDAR, AND COMMITTEES

Each house has long-established rules relating to election and duties of legislative officers. The presiding officers of the senate are the president and the president pro tempore. The presiding officers of

The Wisconsin Legislature depends on rules to organize and facilitate its work. ... Legislative rules structure government procedure.

the assembly are the speaker and the speaker pro tempore. Other officers include the chief clerk and the sergeant at arms. The legislative rules specify the duties of the officers and the order of succession in the absence of the presiding officer.

In the senate, the committee on senate organization sets the daily calendar. In the assembly, the chief clerk, under the supervision of the committee on rules, sets the daily calendar. The daily calendar outlines, among other things, which days the legislature will be on the floor and the business that will be addressed on the floor each day.

The rules also include information and requirements regarding legislative committees. Committees play a key role in the legislature, and the rules regarding committees play a key role in the “politics” of the state legislature.

PROPOSAL PROCEDURE, DEBATE, AND VOTING

The rules outline the procedures for introducing, addressing, and voting on a proposal for a new rule or law or changes to an existing rule or law. Proposals include bills, resolutions, and joint resolutions. In both houses, if proper procedures have been followed, any member may introduce proposals on any general business floor period day.

In each house, every proposal receives three separate readings. After the first reading, proposals are generally referred to committee. If the committee reports the proposal out, it goes back to the floor for a second reading. Upon second reading, a proposal is debated and may be amended. It is the duty of the presiding officer to preserve order, decorum, and quiet on the floor within the rules while members are engaged in debate.

In the assembly, a member may speak only from his or her assigned place and when recognized by the speaker. A member of the assembly may not address another member by name but rather may address another member by district number or by the county or municipality in which the member resides (for example, “gentleman from the ninth” or “lady from the fifty-third”).

In the senate, a member must confine himself or herself to the question under debate and may not question the motives of another

member. By keeping debate structured and impersonal, the rules foster a forum for a free and orderly exchange of ideas.

After the third reading of a proposal and after debate is ended, the proposal is put to a vote. Voting may be by voice or roll call. The Joint Rules specify that most questions are decided by a majority of a quorum. Any member who voted with the majority may make a motion to reconsider the proposal.

RULE SUSPENSION

Each house of the legislature may, by motion, suspend its own rules. Generally, any rule may be suspended. The motion, requiring the support of two-thirds of the members present, allows for special action on a specific proposal. Any suspension of the rules is temporary. Rule suspension is sometimes used by the majority to expedite its legislative goals or when a measure is not controversial.

LIMITING DEBATE

Although debate is an essential part of the legislative process, rules limiting debate are sometimes used by the majority to end discussion and move a proposal forward. The majority may limit debate on a motion to “put the question to a vote.” This motion may be made on a question currently under debate or on the main question of a proposal. The motion is not debatable and, if carried by a majority, the proposal or question is put to a vote without further debate.

POINT OF ORDER

A point of order is a question regarding a rule or its interpretation. A point of order is a parliamentary device used to require an assembly

to observe its own rules. Any member who observes what he or she believes to be a rule breach may address a point of order to the presiding officer. The presiding officer will rule on the point of order motion in a manner consistent with the rules and previous rulings. Procedural rulings of the presiding officer cannot be overturned by the courts. In this way, legislative procedure reflects the fact that the legislature is an independent branch of government.

IMPORTANCE OF LEGISLATIVE RULES

Legislative rules help to ensure legislative proposals receive full deliberation in a timely manner. The rules provide structure and order to legislative proceedings. Uniformity of legislative proceedings is essential to fair legislative practice. The rules exist to ensure fairness and order, and because they exist the legislative process can progress in a peaceful and respectful manner.

FURTHER READING

Current Wisconsin legislative rules can be found on the Wisconsin State Legislature Web site at www.legis.state.wi.us/.

Text of *Jefferson’s Manual of Parliamentary Practice* can be found at www.gpoaccess.gov/hrm/browse_108.html.

Robert, General Henry M. *The Scott, Foresman Robert’s Rules of Order Newly Revised*. Glenview, IL: Scott, Foresman Company, 1990.

Governing Wisconsin: "Wisconsin Legislative Rules"

Study Questions

1	Who is responsible for maintaining order and quiet while members of the legislature are engaged in debate?	
2	What is the difference between legislative rules that are created by joint resolution and legislative rules created by resolution?	
3	Explain the importance of the Wisconsin legislative rule that requires three readings of a proposal before it is put to a vote.	
4	Why do Assembly Rule 92 and Senate Rule 92 provide for the continuity of legislative rules from one legislative session to the next?	
5	What might happen in a committee when a proposal not favored by leadership is sent to the committee?	
6	Do legislative rules achieve their goal of ensuring that members of the legislature are well informed on matters upon which they must vote? Why or why not?	

Governing Wisconsin: "Wisconsin Legislative Rules"

Study Questions in the Cognitive Domain

1	Who is responsible for maintaining order and quiet while members of the legislature are engaged in debate?	The presiding officer of each house has the duty of maintaining order, decorum, and quiet while members are engaged in debate.	Cognition
2	What is the difference between legislative rules that are created by joint resolution and legislative rules created by resolution?	Legislative rules created by joint resolution relate to how business will be conducted between the houses of the legislature. Legislative rules created by resolution relate only to the business of the house in which they are created.	Comprehension
3	Explain the importance of the Wisconsin legislative rule that requires three readings of a proposal before it is put to a vote.	Three readings ensure that the members of the legislature will have ample time to research, modify if necessary, and debate a proposal before they make a decision.	Application
4	Why do Assembly Rule 92 and Senate Rule 92 provide for the continuity of legislative rules from one legislative session to the next?	Rules that make government assemblies run smoothly are based on well-established principles of parliamentary law. For example, rules for the duties of a presiding officer are constant and do not need to be debated each session.	Analysis
5	What might happen in a committee when a proposal not favored by leadership is sent to the committee?	When leadership does not support a proposal, it will refer the proposal to a committee; the committee will not report it out, so the proposal will die.	Synthesis
6	Do legislative rules achieve their goal of ensuring that members of the legislature are well informed on matters upon which they must vote? Why or why not?	The rules do not ensure that members will be well informed, but by requiring three readings for each proposal (requiring notice of introduction, committee assignment, and floor debate), the rules ensure that members will have the opportunity to be informed.	Evaluation



Redistricting: Why Legislative Districts Are Redrawn, How It Is Done, and by Whom

WHAT IS REDISTRICTING?

Redistricting is the process by which legislative bodies maintain the principle of equal representation by adjusting their district boundaries to reflect changes in population. This generally occurs once every ten years, reflective of the fact that the United States Census, our most reliable and official measure of population, is conducted every ten years.

WHY REDISTRICT?

Wisconsin Constitution. The redistricting process in Wisconsin is mandated by article 4, section 3, of the Wisconsin Constitution, which requires that the state senate and assembly be redistricted following each federal census “according to the number of inhabitants.” Since 1973, the Wisconsin Legislature has had 33 senate districts, each of which is divided into 3 assembly districts, for a total of 99 assembly districts.

Congressional redistricting. The number of congressional seats in each state is determined by an apportionment based on each state’s share of the whole country’s population. Wisconsin currently has eight seats in the U.S. House of Representatives. The legislature has the responsibility of creating eight equal population districts for the election of

U.S. representatives from the state. U.S. senators are elected at-large, or from the whole state, so no districting is necessary.

The census. Article 1, section 2, of the U.S. Constitution requires that an “actual enumeration” of the inhabitants of the U.S. be conducted every ten years. This requirement is fulfilled by the U.S. Census, which does attempt an actual enumeration by sending a census form to every household in the United States, and asking for information on individuals in the household as of a specific date. (Last time it was April 1, 2000.) The census has been conducted in every year ending in “0” since 1790.

THE PROCESS

Census data. The essential element for the legislature to begin redistricting is the data from the most recent census. The Census Bureau provides each state with a special file providing detailed demographic information down to the city block level. This file is compiled specifically for legislative and congressional redistricting. It is usually available around one year after the census date, that is, in the spring of the year ending in “1.”

Ward lines. In response to the new census data, each municipality with a population greater than 1,000 must divide itself into wards to facilitate elections and must provide these new ward lines to the legislature by August of the year ending in “1.” This enables the legislature to use lines selected locally if it becomes necessary to divide a municipality between two legislative districts.

Congressional redistricting. Late in the year of the census, the Census Bureau releases the total enumeration for each state. Congress then uses that data to apportion the 435 seats of the U.S. House of Representatives among the 50 states. In the spring of the following year, the detailed census data is released, and the legislature can draw lines to create congressional districts of equal population. Virtually no deviation is allowed in the population of congressional districts. The districts are created by the passage of a bill containing detailed descriptions of the districts. Like any bill that passes the legislature, it must be signed by the governor, or passed over his or her veto by a two-thirds majority in each house to become law.

Legislative redistricting. Like congressional redistricting, legislative redistricting involves the use of detailed census data and the

passage of a plan by the legislature. But in the case of Wisconsin's legislative redistricting, the number of seats is fixed by law at 33 in the senate and 99 in the assembly. The population of the state is divided by those numbers to achieve the ideal population of a district in each house. The legislature normally considers a number of bills, each proposing its own redistricting plan. If the two houses of the legislature are able to agree on a plan, and it is approved by the governor or passed over his or her veto, it becomes law.

Court action. If the legislature is not able to enact a redistricting plan, it is likely that a lawsuit will result in new districts being drawn by a court and issued by court order. In fact, federal courts have created the redistricting plans for the Wisconsin Legislature in each of the last three decades. Court challenges to plans enacted by the legislature based on statutory or constitutional grounds are also possible, and can result in the altering or elimination of a redistricting plan by the court.

Deadline. The entire process must be completed by June 1 of the year ending in "2" so that candidates may begin the process of filing to run for office in the new districts in November.

PRINCIPLES OF REDISTRICTING

There are a number of factors the legislature considers in creating a redistricting plan. Some carry more legal weight than others, and the legislature must take this into account while considering redistricting.

Equal population. The fundamental principle in redistricting is that districts must be of equal population. Courts have ruled that legislative districting plans must follow this principle, and that no district may deviate more than 10 percent from the ideal size. In Wisconsin, a standard of 1 percent is usually followed.

Protection of minority rights. Court interpretations of the Voting Rights Act have made it unlawful for states to draw district lines in a manner that dilutes the voting strength of racial minorities, either by concentrating them in a district or dividing them among two or more districts.

Compactness. It is generally considered desirable for districts to be as compact as possible, that is, centered on an area, rather than made in irregular shapes that bring far-flung interests together in the same district.

Contiguity. Districts must consist of one geographic entity; they must not include parts or fragments detached from the main body of the district.

Community of interest. The legislature will generally try to place persons of common interest in the same district where geographically possible. This common characteristic may be ethnic, linguistic, or a matter of keeping a whole county or municipality together in one district. Persons with common economic or political interests may also wish to be grouped together.

Political considerations. Redistricting is an inherently political process, as it is done by an elected legislature that will have to live

with the political consequences of the result. Political considerations, both of parties and of individuals, will underlie every decision made.

Trends in redistricting. Since the redistricting efforts following the 2000 census, there have been some noteworthy developments. Some states—like Texas and Colorado in 2003—have begun to create new district plans between census counts using the same 2000 census numbers. This has typically been done in states where political shifts have made it possible for new legislative majorities to draw plans more favorable to their parties than had been possible during the regular round of redistricting. In Colorado, the state supreme court found the action to be in violation of the state constitution.

The increasingly partisan atmosphere surrounding redistricting—and the charge of "partisan gerrymandering" creating districts that do not produce competitive elections—has resulted in calls for the redistricting task to be taken over by nonpartisan commissions. Two states, California and Ohio, have recently scheduled referenda on the subject.

Governing Wisconsin: "Redistricting"

Study Questions

1	How frequently are congressional districts redrawn?	
2	What are city wards and how are they used in legislative redistricting?	
3	Draw a map of a mostly compact district and a map of a district that is not compact.	
4	 <p>Why is the area around Milwaukee the smallest?</p>	
5	If districts are greatly unequal—for example, imagine one district has 10,000 people and another has 1,000 people—what is the likely effect on democracy and majority rule?	
6	Are you for or against a law requiring that a nonpartisan commission be put in charge of redistricting? Explain why or why not.	

Governing Wisconsin: "Redistricting"

Study Questions in the Cognitive Domain

1	How frequently are congressional districts redrawn?	Districts are redrawn once every ten years, following the national census.	Cognition
2	What are city wards and how are they used in legislative redistricting?	Municipalities with populations over 1,000 divide themselves into smaller units called city wards. During redistricting, if new lines must be drawn between two municipalities, the legislature can use these local lines between wards to add or subtract areas from a district.	Comprehension
3	Draw a map of a mostly compact district and a map of a district that is not compact.	<p>Compact Not compact</p> 	Application
4	 <p>Why is the area around Milwaukee the smallest?</p>	On the map of Wisconsin's eight districts, the area around Milwaukee is the smallest because it is the state's most populated city. Each district has nearly the same number of people. Most people in Wisconsin live in the southeast, so the size of these districts is significantly smaller.	Analysis
5	If districts are greatly unequal—for example, imagine one district has 10,000 people and another has 1,000 people—what is the likely effect on democracy and majority rule?	It would be easier to get elected in a smaller district: less money needed, fewer people to contact, less competition. This would be unfair to those running in a larger district. Each elected representative has the same single vote, so people from the smaller district would be better represented than those in the larger district.	Synthesis
6	Are you for or against a law requiring that a nonpartisan commission be put in charge of redistricting? Explain why or why not.	A nonpartisan commission might be able to implement redistricting principles better than a partisan legislature, but people who have strong party loyalties might fear their interests will not be well served unless the legislature has a hand in redistricting. The courts have had to take over redistricting for the past three censuses.	Evaluation



Who Are Wisconsin Legislators?

Wisconsin's government is not a "pure democracy," that is, one where the people directly govern public affairs. When the U.S. Constitution was being debated, James Madison warned against the dangers of a pure democracy. Madison called instead for a representative republic in which the ideas of the people are refined "through the medium of a chosen body of citizens." This has been the system of government at the federal level and in every state for more than two centuries. In Wisconsin, this system is provided for in article IV, section 1, of our constitution, which requires that "the legislative power shall be vested in a senate and assembly."

The Wisconsin senate consists of 33 members elected to four-year terms. The assembly has 99 members, elected to two-year terms. These individuals, according to Madison's theory, are citizens "whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations." This is a great responsibility. It raises the question, "Who are our legislators?" Who are these people whom we choose to govern our affairs?

DISTRICTS

For legislators to best reflect the diversity of the state, each member is chosen from a separate district. The state is divided into 33 senate

districts, each of which elects one senator. Each senate district also contains three assembly districts, each of which elects one representative, for a total of 99. Every ten years, after the federal census, the districts are adjusted so that each has roughly the same population. Areas of the state with low population density have large districts, and areas with more people have smaller districts. After the 2000 census, districts were created so that each senator represents about 162,536 people and each representative represents about 54,179 people. In September of every even-numbered year, the voters of each district nominate candidates from each party to run for the legislature from the district. In November, the voters elect one of the nominated candidates to represent them in the next session of the legislature the following January.

SEX AND RACE

Of the 33 senators serving in the 2007 legislature, 25 are men and 8 are women. Two are African American. In the assembly, 77 are men and 22 are women. Six are African American and one is Hispanic. According to recent census estimates, this means that African Americans are represented roughly in proportion to their share of the population (5.7 percent), while women (50.6 percent) and Hispanics (4.5 percent) are under-

represented. Representation of these groups in the legislature is a relatively recent phenomenon. Only one African American sat in the legislature before 1945. The number has gradually increased since then. There were no Hispanics until 1999. Women were granted full

The more diverse economy of today is reflected in the occupations of modern legislators.

voting rights in 1920, and the first women legislators served in the 1925 session. Nevertheless, few women served until the 1970s. (The term "assemblyman" was used for all legislators in the assembly until 1969 when the legislature enacted a change to using the term "representative.") No women served in the senate until 1975. The number of women increased rapidly in the 1970s and 1980s, peaking at 11 in the 1999 senate and 33 in the 1989 assembly. Since then the number has leveled off and decreased slightly.

AGE

Every legislator must be a qualified elector of the district he or she represents, meaning the legislator must be at least 18 years old and reside in his or her district. At the start of the 2007 session, the average age in the senate was 54; the oldest senator was 79 and the youngest 36. Two-thirds of the senators were at least 50. The assembly has traditionally been

younger. At the beginning of 2007, the average age in that house was 50; the oldest was 79 and the youngest was 28.

The oldest legislator ever, as far as can be determined, was Senator Philip Downing of Amberg, who was 84 at the end of the 1955 session. The youngest legislator ever was Representative Michael Elconin of Milwaukee, who was 19 years old when he was inaugurated in January 1973.

The average age of members has changed over the years in response to larger political and demographic trends. Legislators were generally younger during the early years of the state. In 1859, senators averaged 41 years old and assemblymen 39. By the 1870s, the average age had increased to the mid-40s. By the 1940s, it was over 50 for both houses. The average age declined sharply in the 1970s, reaching a low of 43 in the senate in 1977 and 41 in the assembly in 1975. The average age has gradually increased since then.

EDUCATION

As a group, legislators are better educated than the population of the state as a whole. While fewer than one-fourth of Wisconsinites have a college degree, 28 of 33 senators and 69 of 99 representatives do. Ten senators and 37 representatives have advanced degrees. The educational attainment of members has been gradually increasing. As recently as 1945, barely half of senators and fewer than a fifth of assemblymen had college degrees.

OCCUPATION

Traditionally, farmers and lawyers dominated the legislature. For decades, around half of all members were one or the other. In 1959, for example, 12 senators were

lawyers and 7 were farmers; 26 assemblymen were lawyers and 22 were farmers. This is less true now. In 2007, the senate had just three of each. The assembly had 11 lawyers and 5 farmers.

The more diverse economy of today is reflected in the occupations of modern legislators. Among the senators are a bricklayer, a software executive, a nurse, a farm manager, a feed and seed dealer, and a baseball team owner. The assembly includes 15 small business owners, two teachers, a realtor, a certified financial planner, a restaurant owner, and a labor union executive. Since both the length of the legislative session and the amount of compensation have increased in recent decades, many members have begun to consider themselves full-time legislators. In 2007, 12 senators and 38 representatives chose this designation.

PARTISAN COMPOSITION

The 2007 legislature was pretty evenly divided between the two major parties, with the senate having 18 Democrats and 15 Republicans, and the assembly 52 Republicans and 47 Democrats. This close partisan split has been typical in recent decades. Only rarely in the past 50 years has either party controlled two-thirds of either house of the legislature. During much of the late 1800s and early 1900s, the Republican Party dominated the legislature, with the great political battles of those times often taking place within that party. During this period, the Progressive and Socialist parties sometimes shared the political battlefield with the Republicans and Democrats. No third party has been represented in the legislature since 1947, and the two major parties have competed fairly equally since 1959.

LEADERSHIP

Members elect a president to lead the senate. Prior to 1979, the lieutenant governor served as president, but usually ceded the gavel to the president pro tempore elected by the members. The highest ranking officer in the assembly is the speaker, who is elected by the membership. In examining the men—they have all been men—who have served in these two positions, a contrast between the houses is evident. The senate has tended in the last 50 years to elect older men with a great deal of experience in the senate, while the assembly has elected younger men with a moderate amount of experience. This reflects a pattern that has held quite uniformly over the past 50 years. With two exceptions, the president of the senate has been a farmer or an attorney. The average age of the president at the start of session has been 60.76 years. The average president has had 11.6 sessions of experience in the senate. The assembly, on the other hand, has elected a full-time legislator as its leader in 10 of the past 25 sessions. In seven sessions, the speaker was an attorney. The average age of the speaker has been 41.2 years at the beginning of the session, and speakers have had an average of 5.56 sessions of assembly experience. Only once in the past 50 years—the 1995 session—has the speaker of the assembly been older than the president of the senate.

By Michael Keane,
Senior Legislative Analyst
Published by the LRB, Madison WI
<http://www.legis.wi.gov/lrb/GW>
No. 28, November 2008

Governing Wisconsin: "Who are Wisconsin Legislators?"

Study Questions

1	In each legislative session, how many legislators serve Wisconsin? How many people does each legislator represent?	
2	How are leaders chosen for the assembly and senate?	
3	Why would representative democracy be preferred to direct democracy?	
4	Identify demographic changes in the membership of the legislature. What is the trend?	
5	Based on trends in demographic changes, predict the effects of increasing the average age of legislators.	
6	Due to lengthened legislative sessions and increased compensation, more legislators consider themselves full-time. Is this a good or bad development?	

Governing Wisconsin: “Who are Wisconsin Legislators?”

Study Questions in the Cognitive Domain

1	In each legislative session, how many legislators serve Wisconsin? How many people does each legislator represent?	There are 99 members of the assembly and 33 members of the senate. Members of the assembly represent 54,179 people, and senators represent 162,536 people.	Cognition
2	How are leaders chosen for the assembly and senate?	Each house of the legislature elects its own leaders. The senate elects a president, and the assembly elects a speaker.	Comprehension
3	Why would representative democracy be preferred to direct democracy?	In a direct democracy, those who make decisions (the voters) possess exactly the average intellect, ethics, and patriotism. In a representative democracy, voters choose legislators whom they believe possess better than average intellect, ethics, and patriotism.	Application
4	Identify demographic changes in the membership of the legislature. What is the trend?	Members of the legislature are older and better educated than in the past, and the legislature has members from both sexes and from Wisconsin’s major racial groups.	Analysis
5	Based on trends in demographic changes, predict the effects of increasing the average age of legislators.	Older members will be more likely to have better education and more relevant experience to guide them in making decisions about public policy; however, they may be less in touch with newer developments in society.	Synthesis
6	Due to lengthened legislative sessions and increased compensation, more legislators consider themselves full-time. Is this a good or bad development?	The answer could be “good,” because members can devote their full attention to legislative duties, or “bad” because members bring less real-world experience to the job.	Evaluation

Part IV

Executive Branch

Governor's Veto Administrative Rules





The Governor's Veto Power: To What Extent Can the Governor Reject Legislation?

WHAT IS A VETO?

Once the legislature has passed a bill, the bill is forwarded to the governor for his or her approval or rejection. A rejection is called a "veto." If the governor approves the bill, it becomes a law; if the governor rejects, or vetoes, the bill, in whole or in part, only the approved portion of the bill becomes law. If the governor fails either to approve or reject the bill within a specified time frame, the entire bill becomes a law.

In 1930, Wisconsin voters endorsed an amendment to the Wisconsin Constitution that grants the governor the right to veto partially any bill that contains an appropriation. Article 5, section 10, subsection (1), paragraph (b) of the Wisconsin Constitution reads:

If the governor approves and signs the bill [passed by the legislature], the bill shall become law. Appropriation bills may be approved in whole or in part by the governor, and the part approved shall become law.

The words are few and simple, but execution of this power has resulted in some complex legal and political wrangling.

TYPES OF VETOES

There are two types of vetoes in Wisconsin: whole and partial. The governor may reject, or veto, any bill in its entirety. This is a whole veto.

As mentioned earlier, article 5, section 10, subsection (1), paragraph (b) of the Wisconsin Constitution allows the governor to veto partially any bill that contains an appropriation. An appropriation is an expenditure or distribution of state money. Perhaps the most famous appropriation bill is the state budget bill, which is approved by the legislature every two years.

The partial veto can be a versatile and powerful tool for the governor. Consider, for example, a partial veto in the 2005-2007 biennial budget bill. In July 2005 the legislature passed two different provisions in the budget bill that read:

The secretary of administration may not lapse or transfer moneys to the general fund from any appropriation account specified in para-

graph (a) if the lapse or transfer would violate a condition imposed by the federal government on the expenditure of the moneys or if the lapse or transfer would violate the federal or state constitution.

(2) TRANSFER FROM GENERAL FUND TO TAXPAYER PROTECTION FUND. There is transferred \$36,000,000 from the general fund to the taxpayer protection fund.

The governor then used his partial veto power and eliminated words to change the provisions to read:

The secretary of administration may transfer moneys to any appropriation account or FUND from the general fund.

By vetoing certain words in the provisions, the governor combined two completely different and unrelated sections of the budget bill to create a broad expansion of executive power. Read literally, the secretary of administration can now transfer money anywhere within the general fund or to other funds from the general fund. Such is the reach of the partial veto power.

Perhaps it is not surprising, then, that governors have been taken to court by legislators and other citizens who believe the partial veto power has been misused.

A SHORT HISTORY OF THE PARTIAL VETO IN WISCONSIN

When faced with an appropriation bill that authorized more money than certain governors were willing to spend, governors have used the partial veto to strike a single number from an appropriation. For example, if the legislature approved an expenditure of \$100,000, the governor simply vetoed the last “0,” thereby reducing the expenditure to only \$10,000. Some legislators were convinced that this type of “digit veto” was an abuse of veto power, but the Wisconsin Supreme Court upheld the practice. The court reasoned that the Wisconsin Constitution granted broad veto powers, even if the governor used the veto to subvert the intent of the legislature. More recent supreme court decisions have allowed the governor to veto appropriation figures approved by the legislature and to write in a lower amount.

Similarly, if the legislature passed an appropriation bill prohibiting a certain activity that a governor believed should be permitted, the governor could simply change the word “cannot” to “can” by vetoing the “not” from the word. In this way, creative governors were able to create wholly new laws by vetoing particular letters and stringing together partial words to form new words and sentences.

Again, this kind of veto was challenged, but the Wisconsin Supreme Court upheld the practice, holding that it too fell within the broad powers granted by the Wisconsin Constitution.

However, in 1990, Wisconsin citizens approved a constitutional amendment to prohibit this type of veto. Article 5, section 10, subsection (1), paragraph (c) of the Wisconsin Constitution now explicitly states:

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.

This change, in practice, has been only partially successful in limiting the creative veto powers of the governor. A governor may still, by creatively crossing out individual words, sentences, even paragraphs or entire pages of text, string together an entirely new provision to further his or her goals.

WHAT HAPPENS WHEN A BILL IS VETOED IN WHOLE OR IN PART?

If a governor vetoes a bill in whole or in part, the legislature gets one more chance to pass the bill. The legislature can override the governor’s veto by approving the vetoed bill, or the vetoed portion of the bill, by a two-thirds majority in both the assembly and senate.

If both houses approve the vetoed bill or vetoed portion of the bill by a two-thirds majority—that is, if the houses override the governor’s veto—the bill or portion of the bill

becomes law despite the veto. However, if either house of the legislature fails to pass the bill or vetoed portion of the bill by a two-thirds majority, the bill or vetoed portion of the bill does not become law and only the non-vetoed portion of the partially vetoed bill becomes law.

SUMMARY

Wisconsin provides the governor with one of the most versatile and powerful veto powers in the nation. Although the governor may no longer choose individual letters within a word to veto, he or she may strike individual words within an appropriation bill to refashion legislation. Additionally, the governor may reduce appropriation amounts by striking individual numbers and writing in a lower number. The legislature may override the governor’s vetoes, but only if it can pass the vetoed bill or vetoed portion of the bill by a two-thirds majority in each house.

Governing Wisconsin: "Governor's Veto"

Study Questions

1	If the governor vetoes a bill, either in whole or in part, can the legislature override it? Explain.	
2	How did the people of Wisconsin limit the "creative" veto power of the governor?	
3	You are the governor. Approve, veto, or partially veto this bill: "To improve graduation rates, the high school calendar is increased by 15 days. \$30 million shall be set aside to fund the program."	
4	Does a governor who can veto in part have more or less power than a governor who can veto only in whole? Why?	
5	Can the governor of Wisconsin partially veto a bill that reads, "The citizens of Wisconsin may carry concealed handguns when accompanied by a permit"?	
6	What reasons can you think of for why the partial veto applies only to appropriations bills?	

Governing Wisconsin: “Governor’s Veto”

Study Questions in the Cognitive Domain

1	If the governor vetoes a bill, either in whole or in part, can the legislature override it? Explain.	Yes, the legislature can override the veto if both the senate and the assembly pass the bill by a two-thirds majority vote.	Cognition
2	How did the people of Wisconsin limit the “creative” veto power of the governor?	In 1990, the people of Wisconsin approved an amendment to the state constitution prohibiting the governor from eliminating individual letters in the words of a bill.	Comprehension
3	You are the governor. Approve, veto, or partially veto this bill: “To improve graduation rates, the high school calendar is increased by 15 days. \$30 million shall be set aside to fund the program.”	Students should explain their action on the bill. Note: if students decide to partially veto, make sure they understand that they may strike words but not letters; they cannot add or change the number of days, although they can strike that part of the sentence. They may reduce but not increase the funding allotted for the program.	Application
4	Does a governor who can veto in part have more or less power than a governor who can veto only in whole? Why?	The partial veto gives the governor more power. It is difficult to override a veto, and a governor can drastically change the spirit of the law or the funding for a program with partial vetoes. Since 1931, there have been only 37 budget bill veto overrides and none since 1985.	Analysis
5	Can the governor of Wisconsin partially veto a bill that reads, “The citizens of Wisconsin may carry concealed handguns when accompanied by a permit”?	No. The partial veto can be used only on bills that contain appropriations (the distribution of money). This bill can be signed or vetoed only in its entirety.	Synthesis
6	What reasons can you think of for why the partial veto applies only to appropriations bills?	The governor’s partial veto power prevents the legislature from bundling several expensive programs into one bill and forcing the governor to approve or reject the whole bill. Some people like the partial veto because it limits government spending. Partial veto power on all legislation would violate the separation of powers.	Evaluation



Administrative Rules in Wisconsin

OVERVIEW

The Wisconsin Constitution delegates to the legislative branch the power to make laws and assigns to the executive branch the power to enforce and execute laws. Although the legislature is highly capable of adopting public policies and setting the agenda for the state, it does not always have the administrative expertise or resources to implement public policies. Also, the implementation and enforcement of the laws may require consideration of details and the adoption of procedures that cannot be foreseen when legislation is enacted. For these reasons the legislature has delegated to the executive branch the power to *promulgate*—to make known and put into effect—administrative rules.

Administrative rules have the effect of law and, as stated in the Wisconsin Statutes, are “issued by an agency to implement, interpret, or make specific legislation enforced or administered by the agency or to govern the organization or procedure of the agency.” State agencies are granted rule-making power to actualize the legislature’s public policy decisions. The administrative rules are compiled in the Wisconsin Administrative Code in 18 volumes and over 70 chapters, covering hundreds of topics ranging from the regulation of funeral directors to unemployment insurance to taxation to falconry.

AGENCY RULE MAKING AND SEPARATION OF POWERS

A main concern with granting agencies rule-making authority is that the granting or exercise of that authority may violate the separation of powers between branches of government, which is unconstitutional. Article IV, section 1, of the Wisconsin Constitution grants the lawmaking powers of state government to the legislature, stating, “The legislative power shall be vested in a senate and assembly.” The Wisconsin Supreme Court has said that an agency “may not substitute its own policy for that of the legislature.” The supreme court’s test for a permissible, thus constitutional, delegation of legislative power to an agency requires (1) that the legislative purpose of the statute be ascertainable; and (2) procedural safeguards to ensure that the agency complies with that purpose.

Agencies are part of the executive branch, yet they are accorded more latitude than the judiciary and the governor to exercise legislative powers because, as a creation of the legislature, they are subject to greater legislative control. An agency’s existence, plus its powers, duties, and scope of authority, are all subject to monitoring, change, or even elimination by the legisla-

ture. Moreover, the legislature can suspend administrative rules.

In *Martinez v. DILHR* (1992), the supreme court was faced with a challenge to section 227.26, Wis. Stats., which grants the Joint Committee for Review of Administrative Rules (JCRAR) authority to suspend administrative rules. The Department of Industry, Labor and Human Relations (DILHR) had implemented a rule that allowed a sub-minimum wage for temporary

The legislature’s delegation of power to agencies “to make rules and effectively administer a given policy is a necessary ingredient in an efficiently functioning government.”

—Wisconsin Supreme Court, *Gilbert v. Medical Examining Board* (1984)

workers, and JCRAR suspended the rule because it did not comply with legislative intent and caused undue hardship for migrant workers. DILHR told employers they could ignore JCRAR’s rule suspension and that it would not take action against employers paying the sub-minimum wage. A group of migrant workers sued DILHR. On appeal, the supreme court rejected DILHR’s claim and found that the suspension of administrative rules under section 227.26, Wis. Stats., was a proper exercise of legislative power and was constitutional.

AUTHORITY FOR CREATING ADMINISTRATIVE RULES

Several sources of authority in the Wisconsin Statutes permit agencies to create administrative rules. First, agencies may, under their own initiative, adopt rules to perform agency functions. If the agency has an established general policy or an interpretation of a statute that it employs in administering or enforcing the statute, that policy or interpretation must be set forth in an administrative rule. If an agency has discretion in deciding cases and it follows rulings in those cases as agency policy, it may do so in an administrative rule.

Second, certain statutes give specific authority to an agency to make rules to administer those statutes. For example, section 565.02 (4), Wis. Stats., states that the Wisconsin Department of Revenue may promulgate rules to operate, promote, and regulate the state lottery.

Third, a municipality or a group outside of state government—such as a farm, labor, business, or professional association, or any five or more persons having an interest in a rule—may petition to create administrative rules. A petition must contain a description of the proposed rule, a statement about why the petitioners are requesting this rule, and a statement about the agency's authority to make the proposed rule.

Finally, when necessary—that is, when life or property is in imminent peril—agencies may adopt temporary rules, called emergency rules, for a period of up to 150 days. For example, the statutes authorize the Department of Agriculture, Trade and Consumer Protection to promulgate emer-

gency rules for moving and selling cattle during a brucellosis outbreak.

PROCEDURE FOR CREATING ADMINISTRATIVE RULES

Upon drafting a new administrative rule, the agency submits it, along with an analysis of the rule's economic impact, to the Wisconsin Legislative Council. The Legislative Council reviews the proposed rule to ensure that there is adequate statutory authority, that the rule complies with stylistic and form conventions, and that it does not conflict with existing rules or with federal law. Following review by the Legislative Council, the agency usually holds a public hearing to solicit feedback on the rule.

After the public hearing, committees in the senate and the assembly review the final version of the agency's administrative rule. If the reviewing committee of either house objects to the rule, it refers the rule to JCRAR. If JCRAR disagrees with the reviewing committee's objection, the rule is approved; alternatively, JCRAR can request that the agency modify the rule. If JCRAR agrees with the reviewing committee's objection, it will introduce a bill in both the senate and assembly objecting to the rule and if either bill is enacted, the agency may not promulgate the rule. If there are complaints about an existing rule, JCRAR may hold a hearing on the rule; if evidence at the hearing supports the complaints, JCRAR may temporarily suspend the rule and then introduce a bill in both houses seeking permanent suspension.

ADMINISTRATIVE ACTIONS AND JUDICIAL REVIEW

Persons or entities believing that an administrative rule will interfere

with their legal rights may bring a lawsuit to declare the rule invalid. A person may challenge a rule if the state starts a legal proceeding to enforce the rule. Further, a party may obtain a contested case hearing with an agency if the party shows it has a substantial interest that will be injured by agency rule enforcement action or inaction. If the petitioning party disputes the hearing examiner's decision, that party may petition for judicial review in circuit court. The circuit court will render a decision based on the evidence introduced in the administrative hearing and, at its discretion, consider new evidence.

SUMMARY

The legislature's authority to delegate power to executive agencies to promulgate administrative rules is an essential part of Wisconsin state government. Agencies have the expertise to develop rules and procedures in specialized areas of government. However, to enable government to function effectively, the legislature can monitor and dictate the scope of the agencies' powers. Wisconsin's system of checks and balances allows legislative oversight and judicial review of administrative rules to ensure that agencies comply with the legislature's intent in delegating power to a particular agency.

Governing Wisconsin: "Administrative Rules"

Study Questions

1	When can the legislature suspend an agency's rules?	
2	What are the procedural safeguards that prevent rule making from becoming tyrannical?	
3	How does the judicial branch get involved in disputes about rule making?	
4	What are the four ways by which the rule-making process can begin?	
5	How does rule making by executive branch agencies improve state government?	
6	Does an executive branch agency violate the separation of powers doctrine when the agency makes rules? Why or why not?	

Governing Wisconsin: “Administrative Rules”

Study Questions in the Cognitive Domain

1	When can the legislature suspend an agency’s rules?	The legislature can suspend a rule before it becomes effective, if a legislative committee objects to the proposed rule.	Cognition
2	What are the procedural safeguards that prevent rule making from becoming tyrannical?	An agency must submit a proposed rule to the Legislative Council, and to committees of the legislature, before the rule becomes effective. Courts can stop application of the rule.	Comprehension
3	How does the judicial branch get involved in disputes about rule making?	The judicial branch gets involved either when an agency sues to enforce one of its rules or when a citizen sues to object to a rule.	Application
4	What are the four ways by which the rule-making process can begin?	(1) State agencies may issue rules that spell out how the agency will perform its functions. (2) A statute may authorize an agency to make rules to administer the statute. (3) Citizens may petition an agency to make a rule. (4) Agencies may issue emergency rules.	Analysis
5	How does rule making by executive branch agencies improve state government?	Executive branch agencies may have more expertise in the detailed or technical aspects of public policy making and the ability to do more thorough fact-finding, resulting in rules that will better carry out the legislature’s public policy.	Synthesis
6	Does an executive branch agency violate the separation of powers doctrine when the agency makes rules? Why or why not?	Agency rule making might violate the separation of powers doctrine, but the supreme court has found that rule making is acceptable to make government more effective; both the legislature and the courts have the power to suspend a rule if it unduly limits legal rights.	Evaluation

Part V

The Judiciary

State Court System

Juries

Judicial Review





The State Court System: A Road Map through Wisconsin's Judicial System

THE THIRD BRANCH

The judicial system, on the state and federal levels, is known as the “Third Branch,” completing the vital system of checks and balances that includes the executive and legislative arms of American democracy. The system’s courts do not create or enforce laws, but interpret the meanings of the laws and apply them in a fair and equitable manner on a case-by-case basis. As a result of this function, the Wisconsin court system is the medium by which citizens of the state most often come into contact with their government.

OVERVIEW OF THE WISCONSIN COURT SYSTEM

The basic powers and framework of Wisconsin’s court system are established in Article VII of the Wisconsin Constitution. The unified court system consists, in descending order of authority, of one supreme court, a court of appeals, circuit courts, and municipal courts. The chief justice of the Wisconsin Supreme Court is the administrative head for the entire judicial system, and appoints the director of state courts to oversee its management. In addition to regulating and managing the state’s courts and judges, the supreme court oversees the practice of law within the state.

The Wisconsin court system is separate from the federal court system. Wisconsin state courts have jurisdiction over cases pertaining to state law, but must follow federal law if it is at issue in any case. Federal courts deal with application of federal law and may take on cases of state law if one party is a Wisconsin resident, but the other party resides in a different state.

Circuit courts. Circuit courts are Wisconsin’s trial courts. They have original jurisdiction in criminal and civil cases. A circuit court judge oversees the conduct of each trial and determines what evidence can be presented. The judge also issues the verdict in a case where there is no jury. In the event of a jury trial, the court oversees the selection of jurors and instructs those jurors on their responsibilities. The court also imposes sentences.

Circuit court judges are elected to six-year terms. Clerks of circuit court are independently elected and provide management and administrative leadership. Court commissioners are appointed to assist the circuit court and have some of the authority of a judge.

Circuits are defined by county lines, with the exception of three

circuits in Wisconsin that combine two counties each. The number of branches in each circuit is equal to the number of judges in that circuit. There are 69 circuits in Wisconsin, with 241 branches and judges.

Municipal courts. In Wisconsin, municipal courts are additional trial courts that have jurisdiction over local ordinance violations. Municipal court decisions may be appealed to a circuit court. Not all municipalities have courts, and some municipalities join to form courts. Municipal judges are elected to two- to four-year terms of service and are not required to have a license to practice law. There are currently 224 municipal courts in operation with 226 municipal judges.

Court of appeals. The Wisconsin Court of Appeals is an intermediate “error-correcting” court. The court of appeals must review all appeals of final circuit court decisions. It may accept appeals of non-final decisions at its own discretion. The court is comprised of 16 judges from four districts with headquarters in Madison, Milwaukee, Waukesha, and Wausau. Judges are elected to six-year terms in district-wide elections. Vacancies are filled by appointments from the governor. Although it is divided into districts, the court of appeals is a

single court whose decisions apply statewide.

Each case brought before the court of appeals is examined at a screening conference. Cases can be decided by a single judge or a panel of three judges, depending on the type of case. A summary disposition decides more than half of all cases brought before the court of appeals. A summary disposition occurs when the panel unanimously agrees on the decision, and agrees that no more than the application of a well-settled law or precedent is needed to resolve the case. Cases can be decided based solely on the submitted briefs (written arguments) if the panel determines that the briefs contain all the needed information. When the panel reaches a decision, it then decides the format in which to present that decision. In a straightforward case, it can simply write an order. In a more complex case, the panel may write an opinion explaining its decision. This written opinion, if published, may be cited and can serve as a guide for others.

If the court of appeals decides that the questions involved in a case cannot be adequately answered by existing law, the court can request certification to the supreme court. Certification can also be requested if appeals courts in different districts differ in their interpretation or application of law.

The supreme court. The Wisconsin Supreme Court is the state's highest court. It has appellate jurisdiction over all state courts, meaning that it may overturn the decision of any of the lower courts. The court is composed of seven justices who are elected to ten-year terms. The chief justice is

the justice with the most seniority on the court. Vacancies on the court are filled by governor's appointment, and each appointee is required to stand for election at a later time.

Known as the "court of last resort," the supreme court will only hear cases that will develop or clarify Wisconsin law. A case can come to the court in a number of ways; however, the court has the discretion to decide which appeals it will hear. It may also hear "original actions" (cases that have not already been heard by a lower court). For a case to come before the court, three or more justices must agree to hear an appeal, and four or more justices must agree to hear an original action. Out of the approximately 1,000 cases it reviews annually, the supreme court hears about 100 cases each session.

The procedure of the supreme court is different from that of a trial court. Once the court agrees to hear a case, it establishes a briefing schedule to receive briefs from each party in the case. These briefs contain arguments for the reason a law should be interpreted in the party's favor. The briefs also cite statutes and court decisions that support the arguments. The case is then scheduled for oral argument, and a "reporting justice" from the court is assigned. The reporting justice will brief the other members on the details and important issues of the case. Oral arguments are actually timed presentations from each party's attorney, limited to 30 minutes each. During the oral arguments, each attorney sets forth and elaborates on the arguments presented in the briefs. The attorneys also answer questions posed by the

justices. The oral argument does not include the presentation of evidence or witnesses.

After the oral argument, the reporting justice will give his or her analysis and recommendation during a decision conference of the justices. Each justice then casts a preliminary vote on the case. Any decision made at this time can be reconsidered by the justices until the decision is filed. The case is assigned to another justice for preparation of the court's written opinion on the case. That justice is drawn from those who voted with the majority decision. After the justices agree on the written opinion, it is "mandated," or filed and published. Justices may also write dissenting or concurring opinions.

SUMMARY

The Wisconsin court system attempts to resolve the legal controversies involving the interpretation and application of law. A unified court system is designed to give participants more than one chance to see that the laws are interpreted and applied correctly and in a peaceful manner. The existence of the court system is necessary to a government founded on the idea of the "separation of powers," whereby no one branch of government or person holds too much power.

Governing Wisconsin: "State Court System"

Study Questions

1	What are the various courts that make up the Wisconsin judicial system?	
2	If a vacancy occurs in a judgeship, how is it filled?	
3	Draw a chart showing the hierarchy of Wisconsin courts and their relative focus evidence (testimony and documents) or on legal questions.	
4	What is the function of an appellate court?	
5	How does the Wisconsin Supreme Court decide which cases it will hear and which ones it will not hear on appeal?	
6	Why doesn't the governor or the legislature act as a supreme court? Why do we need a third branch of government?	

Governing Wisconsin: “State Court System”

Study Questions in the Cognitive Domain

1	What are the various courts that make up the Wisconsin judicial system?	The Supreme Court, the Court of Appeals, circuit courts, and municipal courts.	Cognition
2	If a vacancy occurs in a judgeship, how is it filled?	The governor appoints someone to serve as judge for the unexpired term; the person appointed must later stand for reelection when the term ends.	Comprehension
3	Draw a chart showing the hierarchy of Wisconsin courts and their relative focus evidence (testimony and documents) or on legal questions.	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Supreme Court</div> <div>Focus on interpretation and correct application of law.</div> </div> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Court of Appeals</div> <div></div> </div> <hr style="width: 100%;"/> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Circuit Court</div> <div>Focus on reliability and relevance of evidence.</div> </div> <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Municipal Court</div> <div></div> </div> </div>	Application
4	What is the function of an appellate court?	An appellate court corrects errors made by the lower court.	Analysis
5	How does the Wisconsin Supreme Court decide which cases it will hear and which ones it will not hear on appeal?	The Wisconsin Supreme Court chooses to hear cases that clarify Wisconsin law and, to a lesser extent, correct errors made by the lower courts. Not every case that is appealed involves legal points that need clarification or significant errors.	Synthesis
6	Why doesn't the governor or the legislature act as a supreme court? Why do we need a third branch of government?	Having a third branch that is independent of the legislature and the governor insures that the people's civil liberties will be better protected.	Evaluation

Lesson Plan: The Wisconsin Court System

Note: This lesson is most appropriate for high school classrooms.

THEME

What happens in Wisconsin's courts, and what kinds of cases are heard in Wisconsin's courts?

MATERIALS

Note cards, 3 x 5

Blank typing paper

Many blue or tape dispensers

Poster board, eight to ten pieces depending on class and small group size

Markers, colored pencils, pens

Newspapers and magazines (optional)

Internet access (optional)

METHOD

This lesson plan involves three class periods of 45–50 minutes.

DAY ONE

Introduction

Introduce some key concepts about the court system. Once the key concepts have been adequately covered, use a note-keeping handout to guide students through the federal and state courts with jurisdiction in Wisconsin.

An alternative to lecturing is to have students do the research themselves via the Internet links listed below. This option requires an Internet lab of at least ten computers. The note-keeping handout should be designed for students to complete the worksheets using the Web sites provided below.

Some key terms and concepts:

- **CRIMINAL**—defines crimes and relating punishments.
- **CIVIL**—relates to disputes among two or more individuals, organizations, or groups or between them and the government.
- **CONSTITUTIONAL**—deals with cases both criminal and civil that hit on interpretation and application of the state or federal constitution. Many of these deal with criminal and civil rights.
- **JURISDICTION**—the authority to hear certain kinds of cases.
- **STATE JURISDICTION**—applies to cases dealing with the Wisconsin Constitution, Wisconsin law, local ordinances, disputes among two or more individuals within Wisconsin or two or more companies, organizations, or groups within Wisconsin, or a person, business, organization versus the state of Wisconsin or related government agency or body.
- **FEDERAL JURISDICTION**—applies to cases involving the U.S. Constitution, federal laws, treaties, bankruptcy, admiralty or maritime law. If the following parties are involved: ambassadors or other representatives of foreign countries; two or more state governments; U.S. government, agencies, offices, or residents of different states; state and residents of

different state; state residents versus foreign citizens; or two residents of same state fighting over land granted by another state. Some of the criminal law that falls under federal jurisdiction includes: terrorism, bank robbery, espionage, counterfeit, crimes against federal properties, kidnapping, stealing cars across state lines, murder of federal employees, bombs, selling illegal weapons and narcotics.

- **CONCURRENT**—rare cases when federal and state jurisdictions overlap. Includes any lawsuit where citizens of different states are involved in disputes concerning at least \$50,000. The person being sued can insist on federal court jurisdiction. Some criminal acts violate both federal and state laws simultaneously.
- **OTHER POSSIBLE TERMS:** capital offense, plaintiff, defendant, misdemeanor, felony, probate, preliminary hearing, grand jury, petit (trial) jury, appellate and original jurisdiction, common law, due process, judiciary, international law, World Court, judicial power, judicial review, domestic relations, magistrates, mediation, and Friend of the Court.

Homework

Assign each student to find and bring to class two articles from newspapers or magazines (paper or electronic) that relate to courts or law.

DAY TWO

Creating the Courts

1. If desired, check for completion of assignment and notes from yesterday.
2. Divide the class into eight groups (three to five students per group). Assign each group a court title: Wisconsin Supreme Court; Court of Appeals; Circuit Courts; Circuit Courts-Family Division; District Court; Probate Court; Claims Court; Federal Courts. Also, write the court titles on the board for all to see.
3. Direct individual students to tape or glue their articles down on paper. Then as a group they should discuss which court has or will have jurisdiction in each particular case.
4. Each group should write six to eight legal scenarios (one on each 3x5 note card). Each scenario should be at least three sentences long. The teacher should provide an example legal scenario to illustrate his or her expectations. Three or four scenarios should involve cases or stories that fall under their assigned court's jurisdiction. The other three or four should fall under the jurisdiction of three or four other courts represented by the small groups.
5. Turn over the 3x5 note cards and news articles.
6. Using poster board (folded in half so that it can stand independently), each group should design a simple but effective sign that displays the official title of their court along with creative symbols that illustrate what type of cases their court handles.
7. Collect the poster boards at the end of class.

DAY THREE

Courtroom Shuffle

1. As students enter class, they should arrange themselves into the small groups assigned on Day Two. Each group should place their sign in the center of their desks where it is clearly visible to others in the room.
2. Randomly mix the news articles and 3x5 scenario note cards, and redistribute them equally to each group.
3. Each group should take 10–15 minutes to read the cases they received and try to determine which court has jurisdiction over each particular case.
4. After group discussions, students should circulate the room, bringing each case to the court (represented by poster board signs) that they conclude holds jurisdiction. Once all of cases are distributed, students should return to their seats.
5. Each group should look over the cases that were left on their desks and determine whether they indeed hold jurisdiction. This should take five to ten minutes.

Closure: Class Discussion

1. Begin by asking each group if it received any cases that group members believe do not fit their court. If so, as a class, discuss where the confusion lies and where the case belongs. At this point, the teacher may wish to highlight the scenarios of the appellate courts in order to explain the appeals process.
2. Once the cases have been discussed sufficiently, shift the conversation toward the effectiveness of Wisconsin courts.

Assessment Strategies

The assessment includes three parts:

1. A student's completion of the notes and assignment given on Day One.
2. The accuracy of the student's ability on Day Two to create a visual for their court title and to write scenarios of cases.
3. The accuracy of the whole class in categorizing the cases on Day Three, and their ability to participate in closure discussion that hits specifically on the concept of Wisconsin court system effectiveness.

SUGGESTED WEB SITES

The Wisconsin Court System: <http://www.wicourts.gov/> .

This site concentrates on the Wisconsin Supreme Court but discusses the other courts and provides links to other Wisconsin court Web sites. This is probably the best site for a general overview of all courts.

Connecting to the Courts—Teachers Guide:

<http://www.wicourts.gov/about/resources/docs/teacherguide.pdf>

This site has a teacher's handbook that includes lessons on the Wisconsin court system.

Federal Judiciary: <http://www.uscourts.gov/>.

This site outlines the federal judiciary and provides some educational activities and lessons for teachers that cover a broad range of primary and secondary levels. The site provides links to U.S. Courts of Appeals Web sites.

Federal District Court : <http://www.miwd.uscourts.gov/>.

This site provides good general information on the U.S. district courts but also emphasizes the courts and court personnel on the western side of the state.

United States Supreme Court: <http://www.supremecourtus.gov/>.

This is an excellent and interesting site about the United States Supreme Court. A great site for finding out what the current "big news" is in the area of judicial and constitutional interpretation. It also provides great ties into current events and controversies.

This lesson plan adapted from the Civics Institute:

http://www.civicsinstitute.org/curricula/high/US_Constitution_and_federa.html



Juries in Wisconsin: An Overview

TYPES OF JURIES IN WISCONSIN

There are three types of juries used in Wisconsin: the grand jury, the petit jury, (sometimes called the trial jury), and the coroner's jury. Each type of jury has its own characteristics and serves a unique purpose. This paper will discuss each type of jury, how its members are chosen, how it functions, and what purposes it serves.

CONSTITUTIONAL RIGHT TO A TRIAL BY JURY

The right to a trial by jury is guaranteed by the United States Constitution. The Sixth Amendment states that every person accused in a criminal prosecution enjoys the right to have his or her case decided by an impartial jury. The Seventh Amendment states that every person has a right to a jury trial in a civil matter where the value in controversy exceeds 20 dollars. Article I, section 5, of the Wisconsin Constitution also protects this right, stating in part that the "right of trial by jury shall remain inviolate."

Although the right to have a unanimous jury verdict is not explicitly guaranteed in either the United States Constitution or the Wisconsin Constitution, courts have consistently held that a defendant in a criminal trial must be found guilty by every juror. The Wisconsin Constitution explicitly states that the legislature may sanction a

verdict by five-sixths of the jury, but only in civil cases.

HOW JURIES ARE CHOSEN

Over the years, efforts have been made to make the jury process more inclusive, for the benefit of the parties involved and to encourage full participation in the judicial process for a greater number of citizens. Where jurors were once culled from land ownership records or voting records, increasingly large numbers of states initiated alternative methods of including a wider variety of citizens in its pools of potential jurors.

In Wisconsin, the Department of Transportation compiles, for each circuit court, a list of persons in that court's jurisdiction who have a driver's license or an identification card. The clerk of each circuit court uses this list and, in addition, may use voter registration lists, telephone and municipal directories, utility company lists, property tax rolls, lists of persons receiving certain aid, or lists of high school graduates, to compile a master list of potential jurors. These additional sources are intended to provide a wider reach into the general populace in order to create a jury pool that is truly representative of the jurisdiction's population. To create a jury, a court randomly selects names from the list and further

selects qualified jurors from among those selected until the desired number of jurors is obtained.

To serve as a juror, a person must be at least 18 years of age, a citizen of the United States, and able to understand the English language. It is indicative of the high value placed on jury service that if a person has been convicted of a felony and his or her full civil rights have not been restored, that person may not serve on a jury.

GRAND JURY

A grand jury is chosen at the discretion of a circuit court judge, who requests the clerk of the circuit court to assemble a grand jury. To form a grand jury, the clerk of the circuit court randomly selects not fewer than 75 nor more than 150 names from the master list of potential jurors. The judge and the district attorney then question each potential juror to determine if he or she is suitable to serve on the grand jury. A grand juror may not have any predisposition for or against the person under inquiry and must swear or affirm that he or she will indict (or refuse to indict) according to the best of his or her understanding of the evidence presented to the grand jury.

A grand jury consists of no fewer than 17 persons. Once a grand jury of at least 17 persons is chosen, the district attorney presents the evidence he or she has gathered

against a particular person and the grand jury determines whether the evidence is sufficient to charge the person with a crime. If at least 12 members of the grand jury determine that the person should be charged with a crime, the grand jury issues an indictment against the person. All proceedings involving a grand jury, from the identity of the grand jurors, to the evidence it reviews, to each vote on each issue presented, is kept secret.

PETIT JURY

A petit jury determines a person's guilt or innocence in a criminal trial, or liability in a civil trial. A petit jury consists of 12 persons in a felony case, unless both parties agree to a smaller number, six persons in a misdemeanor case, and six persons in a civil case, unless one party requests a greater number, in which case up to 12 persons may serve. Like members of a grand jury, members of a petit jury are chosen randomly from the clerk of circuit court's master list of potential jurors. A person who was a grand juror may not serve on the petit jury for the same case.

Once chosen, potential jurors are questioned by the judge and the attorneys for both sides of the case that the jurors are set to hear to determine if any juror holds any bias toward or against any of the parties involved. The judge and each attorney may excuse any juror from serving on the jury if the juror demonstrates bias. A juror excused for having a bias is said to have been removed from the jury "for cause." Additionally, each side may excuse a certain, limited, number of jurors for any or for no reason. A juror removed in this manner is said to have been removed by "peremptory challenge."

Each party may exercise up to three peremptory challenges in a civil case. In a criminal case, the number of peremptory challenges depends on whether multiple defendants are involved and the severity of the potential punishment each defendant faces. At a minimum, each side is entitled to four peremptory challenges. There is no limit to the number of jurors that can be excused "for cause."

When the appropriate number of jurors is seated, each juror swears or affirms that he or she will consider all of the evidence presented and render a verdict according to the law and the evidence presented in court. At that point, the criminal or civil trial may begin.

After the evidence has been presented, a petit jury deliberates, or discusses, the evidence. Under certain circumstances, a jury may be sequestered, or prevented from communicating with others.

In a criminal case, the jury must render a unanimous verdict to convict the defendant. In a civil case, five-sixths of the jurors must agree to the verdict.

CORONER'S JURY

Upon the request of a county's coroner, the clerk of circuit court chooses jurors from the same master list of potential jurors that is used to select grand and petit jurors. Six jurors serve on a coroner's jury and determine whether a death occurred naturally or as a result of suicide or homicide. As with a civil jury, five-sixths of a coroner's jury must agree on the result. A coroner's jury is seldom called in Wisconsin.

SUMMARY

In Wisconsin, every citizen has the right, and duty, to serve upon a jury. Conversely, by virtue of the United States Constitution and the Wisconsin Constitution, every citizen has the right to have his or her civil or criminal trial decided by a jury. While not unique to the United States, the right to a trial by an impartial jury is rarely found in other parts of the world and is a cherished cornerstone of our rights as citizens of this country. Recognizing its importance, Thomas Jefferson stated that trial by jury is "the only anchor ever yet imagined by man by which a government can be held to the principles of its constitution."

To preserve this right to its fullest, clerks of Wisconsin courts use a variety of sources to gather a comprehensive and representative list of potential jurors for criminal, civil, and coroners' investigations and trials. The juror, once accepted to serve, must swear or affirm to consider only the evidence presented and to render a decision based on the law and the evidence, free from bias or undue influence. Whether a grand jury, petit jury, or coroner's jury is convened, a citizen's right to an impartial arbiter of truth is protected.

Governing Wisconsin: "Juries in Wisconsin"

Study Questions

1	What are the qualifications for becoming a member of a jury?	
2	Explain how the role of a grand jury is different from the role of a petit jury.	
3	Carl is being interviewed to be a juror for a case involving armed robbery; he has been a victim of armed robbery. Is he likely to be selected as a juror?	
4	What problems might emerge if the circuit courts used only voter registration lists for jury selection?	
5	Other countries have abolished or moved away from jury trials in certain types of cases. Most jury trials happen in the United States. What are some social pros and cons of juries?	
6	Would you support a bill that proposed a tax break for jurors instead of compensation, currently \$16 per day plus mileage? (See 2003 Assembly Bill 171.) Why or why not?	

Governing Wisconsin: “Juries in Wisconsin”

Study Questions in the Cognitive Domain

1	What are the qualifications for becoming a member of a jury?	Jury members must be at least 18, U.S. citizens, and able to understand English. A potential juror who has been convicted of a felony must have restored civil rights. In Wisconsin a felon may not vote or serve on juries until completing the entire sentence.	Cognition
2	Explain how the role of a grand jury is different from the role of a petit jury.	A grand jury determines whether the state has enough evidence to indict someone of a crime. If the grand jury votes to indict, the case goes to trial where a petit jury decides if the person is guilty or innocent.	Comprehension
3	Carl is being interviewed to be a juror for a case involving armed robbery; he has been a victim of armed robbery. Is he likely to be selected as a juror?	Carl would likely be removed "for cause" (having a bias). Even if the judge believed Carl could rule fairly in the case, the defending lawyer would probably remove him as one of his or her peremptory challenges.	Application
4	What problems might emerge if the circuit courts used only voter registration lists for jury selection?	Some people might not to vote in order to avoid jury duty. People who register to vote might not be a good representation of the population. What if people from a particular race or social class were more likely to register to vote, and, consequently, juries represented the interests of that demographic more than other groups?	Analysis
5	Other countries have abolished or moved away from jury trials in certain types of cases. Most jury trials happen in the United States. What are some social pros and cons of juries?	Jurors are participating directly in government. Juries check state power by ensuring a conviction by peers, not state representatives. But jurors often must consider complex information that may be difficult to understand; jurors may be easily swayed by specious arguments; and jurors may decide cases with prejudice.	Synthesis
6	Would you support a bill that proposed a tax break for jurors instead of compensation, currently \$16 per day plus mileage? (See 2003 Assembly Bill 171.) Why or why not?	This is an opinion question, but students might consider (1) economic hardship for people who are paid hourly or who do not get vacation days; (2) a citizen's civic duty over the state's obligation to reimburse lost wages; and (3) that loss of state income from the tax break means cuts for other state programs.	Evaluation



Judicial Review

In the United States, political authority is divided among the legislative, executive, and judicial branches of government. The federal and state constitutions assign the branches their individual and shared powers. In this arrangement, the legislature makes the laws and provides funding for government operations; the executive enforces the laws and exercises powers delegated to the executive by law; and the courts adjudicate legal disputes and determine the constitutionality of governmental actions if these actions are challenged in a lawsuit. The power of a court to determine constitutionality of governmental actions is called the power of judicial review.

THE THEORY AND PRACTICE OF JUDICIAL REVIEW

The federal Constitution and state constitutions assign the judicial power to the courts. American courts are unique among courts throughout the world in that they possess the power of judicial review. While the power of judicial review is inherent in this grant of judicial power, taken to an extreme, at least in theory, the exercise of judicial review can lead to judicial supremacy. After all, if the court can determine the legality of legislative actions, as well as actions of the president and governors and federal and state administrative agencies, then the court can effectively set limits on all government action. In a representative democracy, in which the legislature is the

policymaking body, judicial supremacy is a problem.

For this reason, courts set limits on judicial review. They will not review the legality of governmental actions unless there is an actual case at hand. In other words, a party with legal standing must commence a lawsuit to challenge the actions. In this way, courts do not sit as a supreme legislature, dictating which laws are constitutional and which are unconstitutional. Courts also seek to resolve legal disputes on non-constitutional grounds to avoid turning every dispute into a constitutional case. Finally, courts presume that all laws are constitutional, and the burden on finding laws unconstitutional is placed on the party challenging the laws. These mechanisms temper the power of judicial review.

THE ORIGIN OF JUDICIAL REVIEW

Although the power of judicial review is not explicitly mentioned in the federal Constitution, the Founding Fathers believed that this power resided in the grant of the judicial power to the courts. In Federalist No. 78, the authoritative account of the judiciary under the Constitution, Alexander Hamilton wrote that the “interpretation of the laws is the proper and peculiar province of the courts.” If the Constitution conflicts with the statutes, “the constitution ought

to be preferred to the statute.” For Hamilton, the Constitution was “fundamental law” and trumped all legislative enactments.

In 1803 the Supreme Court affirmed the power of the courts to void unconstitutional laws. In *Marbury v. Madison*, Chief Justice

“It is emphatically the province and duty of the judicial department to say what the law is.”

—Chief Justice Marshall,
Marbury v. Madison (1803)

John Marshall wrote that “a legislative act contrary to the constitution is not law.” And, he added, “It is emphatically the province and duty of the judicial department to say what the law is.” His conception of judicial review echoes Hamilton’s ideas. The courts have the power to overturn laws that conflict with the Constitution. The power of judicial review is a key and inherent feature of the larger judicial power.

Wisconsin played a role in the development of judicial review in the United States. By the 1850s, all states had incorporated some form of judicial review. The Wisconsin Supreme Court took a very expansive view of judicial review, asserting its authority to declare acts of Congress unconstitutional. In *Ableman v. Booth* (1858), however, a case involving the federal fugitive slave law, the United States Su-

preme Court rejected this assertion, but declared its own powers: “If it appears that an act of Congress is not pursuant to and within the limits of the power assigned to the Federal Government, it is the duty of the courts of the United States to declare it unconstitutional and void.”

JUDICIAL REVIEW IN WISCONSIN: NONECONOMIC DAMAGES IN MEDICAL MALPRACTICE LAWSUITS

Wisconsin courts have rarely struck down legislative acts. As in most states, the legislature is the preeminent policymaking body and courts are rightly cautious in substituting their public policy preferences, even if expressed in terms of constitutional necessity, for those of the legislature. But sometimes courts overturn laws on constitutional grounds and these occasions allow us to observe judicial review in action. Consider the case of *Ferdon v. Wisconsin Patients Comp. Fund* (2005), in which the Wisconsin Supreme Court, in a 4–3 decision, ruled unconstitutional a law limiting noneconomic damages in medical malpractice lawsuits.

A medical malpractice lawsuit is one in which an injured party seeks relief for injuries the party has allegedly suffered as a result of negligent medical care. Among the damages a party may seek are those for the cost of medical care for the injury, lost future earnings as a result of the injury, and noneconomic damages resulting from the injury. Noneconomic damages include pain and suffering, loss of companionship, and even mental distress. The legislature capped noneconomic damages at \$350,000. In *Ferdon*, at issue was whether this cap violated the equal protection guarantees of the Wisconsin Constitution.

In equal protection cases not involving fundamental rights, courts will uphold the constitutionality of a law if there is any “rational basis” for the law. This test is not found in the constitution, but is instead one that the court has created in exercising its power of judicial review. The equal protection issue centered on the different treatment of people who had noneconomic damages greater than the cap and those whose noneconomic damages were less than or equal to the cap. The latter could receive full noneconomic damages, while the former could receive only up to \$350,000 for these damages.

In *Ferdon* the court identified the legislature’s objectives in enacting the law, and what the court inferred was the rationale for limiting noneconomic damages. The court looked at selected studies on health care costs, medical malpractice premiums, and the delivery of health care and concluded that the caps had no effect on reducing health care costs, lowering medical malpractice premiums, or improving the delivery of health care. The court then ruled that the caps did not have a rational basis and were therefore unconstitutional. Indeed, the court held that to do otherwise would “amount to applying a judicial rubber stamp to an unconstitutional statute.”

The dissenting justices in *Ferdon* strongly disagreed, claiming the court had engaged in a selective reading of empirical studies, and that “instead of attempting to locate a rationale to support the caps, the majority searches for studies to discredit them.” They argued that there was a rational basis for the caps and that the plaintiff had simply not met the burden of proving the caps unconstitutional

beyond a reasonable doubt. According to the minority, the court had adopted a new rational basis test that in practice gave courts the power “to invalidate legislation that does not suit the majority’s fancy.”

Ferdon is an exception in Wisconsin jurisprudence, as courts will usually affirm the constitutionality of most laws. Yet, when a court strikes down legislative enactments and is divided, as in *Ferdon*, then the court’s use of judicial review is controversial and the court faces the criticism that it is actually substituting its public policy preferences for those of the legislature. Judicial review works best when the court is united. A divided court makes it easier for some to claim that the court is engaged in policymaking when it exercises its power of judicial review and overturns legislation.

CONCLUSION

Judicial review is a key feature of the separation of powers doctrine, as it has developed in the United States. Yet, there is a tension between judicial review and representative democracy, a tension captured well by Abraham Lincoln in his First Inaugural Address: “If the policy of the government upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court...the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal.”

By Richard Champagne,
Senior Legislative Attorney
Published by the LRB, Madison WI
<http://www.legis.wi.gov/lrb/GW>
No. 27, May 2008

Governing Wisconsin: "Judicial Review"

Study Questions

1	List some ways that courts limit their own consideration of constitutional issues.	
2	Does the concept of judicial review strengthen or weaken the concept of separation of powers? How?	
3	How could the doctrine of judicial review lead to tyranny by the courts or tyranny in general? Is this a realistic possibility?	
4	Why would courts wish to limit their review of constitutional questions and decide cases on other grounds?	
5	If courts could not declare statutes unconstitutional under the doctrine of judicial review, how could unconstitutional statutes get corrected?	
6	As a judge in the <i>Ferdon</i> case, how would you have ruled? Does a statute that sets a maximum for noneconomic damages violate the equal protection clause?	

Governing Wisconsin: “Judicial Review”

Study Questions in the Cognitive Domain

1	List some ways that courts limit their own consideration of constitutional issues.	(1) Courts decide questions only related to an actual case or controversy. (2) The courts will attempt to resolve all questions on non-constitutional grounds. (3) The courts adopt a presumption that all statutes are constitutional and require proof to the contrary.	Cognition
2	Does the concept of judicial review strengthen or weaken the concept of separation of powers? How?	Judicial review gives the courts more authority over the executive and legislative branches of government. Given that the judiciary is generally regarded as the weakest branch of government, judicial review tends to better balance the powers and improve their separation.	Comprehension
3	How could the doctrine of judicial review lead to tyranny by the courts or tyranny in general? Is this a realistic possibility?	A faction of judges could stop the enforcement of any law by ruling it unconstitutional.	Application
4	Why would courts wish to limit their review of constitutional questions and decide cases on other grounds?	The constitution changes slowly, so the courts do not wish to limit their range of decision by committing to a particular interpretation of the constitution.	Analysis
5	If courts could not declare statutes unconstitutional under the doctrine of judicial review, how could unconstitutional statutes get corrected?	The courts could more clearly state that certain statutes should be amended. The governor could be more judicious in using the veto. The legislature could perform a constitutional review of its acts. If the government did not correct the error, the people could force a change at the ballot box. The press could highlight these issues.	Synthesis
6	As a judge in the <i>Ferdon</i> case, how would you have ruled? Does a statute that sets a maximum for noneconomic damages violate the equal protection clause?	Students may argue that the legislature did or did not have a rational basis for setting a maximum that courts can award for noneconomic damages.	Evaluation

Part VI

State Government in Action

Taxes

Political Parties

Lobbying

Referenda and Recall

Open Meetings Law

Public Records Law

Special Purpose

Districts

Municipalities

State Budget





Wisconsin Taxes

In an 1819 U.S. Supreme Court decision, *McCulloch v. Maryland*, Chief Justice John Marshall said that “the power to tax involves the power to destroy.” Although the decision is most notable for its exposition on the limits of federal authority, it also provides a legal and logical foundation for a state’s ability to tax activities occurring within the state. Chief Justice Marshall also said that the power to tax is the power to create. In short, a state may use its taxing authority to discourage some activities (imposing a cigarette tax, for example) and to encourage others. No matter what the purpose of the tax, the primary goal of imposing a tax is to raise revenue for operating the state and the local governmental units within the state. In Wisconsin, the most important taxes for generating revenue are the property tax, the income tax, and the sales tax.

PROPERTY TAX

The property tax works by charging a property owner a percentage of the property value. For example, in 2003-04, Milwaukee property taxes were about 2.4 percent, so a homeowner with a house worth \$100,000 paid \$2,400 annually. The U.S. property tax system was adapted from the English system, but the idea of raising revenue from imposing a property tax can be traced to the ancient world. In 5000 BCE, for example, Egypt taxed the value of grain, cattle, oil, beer, and land.

The Northwest Ordinance of 1787 established the initial criteria for imposing property taxes in the territory that would become Wiscon-

sin: “No tax shall be imposed on lands [that are] the property of the United States, and in no case shall non-resident proprietors (property owners) be taxed higher than residents.” When Wisconsin adopted its constitution in 1848, the property a person owned was the best indication of the person’s wealth.

The property tax is an appealing tax to impose because it is the most reliable way for a local governmental unit (city, town, village, county, school district, etc.) to raise money. The local governmental unit decides what it needs to spend for the coming year, determines the value of the property located within its boundaries, and then adjusts its property tax rate to collect that amount.

The property tax system in this state had serious problems prior to the 20th century. Article VIII, section 1, of the Wisconsin Constitution requires “uniform” property taxation. In other words, with certain exemptions that the legislature authorizes, all property should be assessed at its fair market value, without regard to the property owner’s status and without substantial variance from one community to the next. Property tax assessments prior to the 1900s were not uniform, in part because the assessments were not performed by trained personnel. The assessments also were frequently tainted by local favoritism. In 1867, for example, the Door County board raised the property values in the town of

Liberty Grove, a Norwegian settlement, and lowered the property values in the town of Brussels, a Belgian settlement. Consequently, the residents of the Belgian settlement paid less property tax than the residents of the Norwegian settlement. The county board consisted of three members, and all three were of Belgian descent.

In 1899, the legislature and the governor created a temporary tax commission to supervise the property tax system. The state expanded the commission’s duties in 1902, and the commission became permanent in 1905. The commission seemed to have an immediate impact on the local property tax assessments: in 1902, the average local property tax assessment was 78 percent of full market value, as opposed to approximately half that percentage in 1901.

Today, the Department of Revenue trains and certifies all property tax assessors, and annually reviews all local property tax assessments and adjusts the property values reported from any taxing jurisdiction that seem too high or too low compared to the value of similar property elsewhere in the state. Taxpayers may object to their property tax assessments before a local board of review and appeal an adverse decision from the board of review to the tax appeals commission and, if necessary, to the courts.

In 2005, property owners paid over \$7 billion in property taxes. Local governmental units collected approximately 99 percent of that amount and the state collected the

remaining 1 percent for forestry-related purposes. Residential property owners paid 70 percent of the property taxes collected in 2005.

INCOME TAX

Wisconsin experienced an economic boom in the 1880s and 1890s from the growth of railroads and insurance, telegraph, and telephone companies. At that point, the true measure of a person's wealth had to include income, and income-producing activities, as well as property.

In 1908, the citizens amended the constitution to allow a tax on incomes, privileges, and occupations. This change resulted in imposing the nation's first *workable* state income tax in 1912. Several other states had established a state income tax prior to 1912, but those tax systems suffered from poor administration. Wisconsin's income tax was also one of the most innovative state tax systems. For example, in 1927, the state allowed a taxpayer to subtract personal exemptions from the amount of the tax that he or she owed the state rather than from the taxpayer's total taxable income. So each person's exemption had the same value, relative to the person's tax liability, regardless of the amount of the person's income. Other states adopted this innovation.

Today, Wisconsin imposes an income tax on individuals and on corporations. For tax purposes, a person's Wisconsin gross income is generally based on the person's federal gross income. The person then subtracts deductions and exemptions from the Wisconsin gross income to determine the person's Wisconsin taxable income. The person's state income tax liability is the Wisconsin taxable income, minus any tax credits. Tax credits are usually created to provide tax relief to certain persons or to encourage certain economic activity. For ex-

ample, a corporation may claim tax credits for creating jobs in development zones; a dairy farmer may claim tax credits for expenses paid to update equipment and expand the

DID YOU KNOW?

Taxable income is your gross income (total money earned) minus an individual deduction (money you earn but not taxed). If you were single and earned \$20,000 in 2006, your personal deduction would be about \$7,500, which means you would be taxed on \$12,500 (your taxable income). Without other deductions, a person with a taxable income of \$12,500 would pay \$630 in state income tax over the course of one year—this is part of the money deducted from your paycheck.

operation; and a disabled veteran may claim an income tax credit for the amount of the property taxes the disabled veteran paid on his or her principal dwelling.

For fiscal year 2005-06, the state collected over \$6 billion in individual income taxes and almost \$800 million in corporate income taxes. The amount of corporate income taxes, however, represented less than 7 percent of the state's general fund revenue; individual income taxes represented more than 50 percent of the state's general fund revenue.

SALES TAX

The state imposes a number of "privilege" taxes, as authorized by the 1908 constitutional amendment. The most significant privilege tax, in terms of the amount of money raised for state purposes, is the state sales tax: a tax imposed on retailers for the "privilege" of selling goods and certain services. The sales tax includes imposing a "use tax" on goods and services that are purchased out-of-state and "used" in this state and for which the out-of-state retailer has not collected the state sales tax. The duty to pay the use tax falls on the purchaser because, consistent with U.S. Supreme Court cases, the state

cannot force an out-of-state retailer to collect the state sales tax.

Wisconsin did not adopt a sales tax until 1962. At that time the tax rate was 3 percent of the purchase price of certain goods and services. The goods and services subject to the sales tax in 1962 included alcoholic beverages, tobacco, motor vehicles, household furnishings, recreational equipment, restaurant meals, hotel rooms, telephone services, and entertainment admissions. As required by the law imposing the tax, the state paid \$55,000,000 to towns, villages, and cities, which then distributed the money to the taxpayers. After many subsequent modifications, the direct distribution of sales tax revenue to local governmental units was eliminated in 1971, although similar provisions were incorporated into the distribution of state revenues under the "shared revenue" program.

The sales tax rate increased to 4 percent in 1969 and the tax became a general, rather than a selective, tax on the sale of goods. In other words, the sale of any product is considered subject to the tax, unless specifically exempted. But the sale of a service is considered not subject to the sales tax unless the law specifically indicates the service is taxable. The tax rate increased again in 1982 to its current rate of 5 percent. This increase approved by the legislature was supposed to be a temporary measure to increase property tax relief. In 1983, facing a substantial deficit, the state made permanent the 1 percent sales tax rate increase and eliminated the 1 percent increase in property tax relief. In 2005, the state collected over \$4 billion in state sales taxes.

By Joseph Kreye,
Senior Legislative Attorney
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 22, May 2007

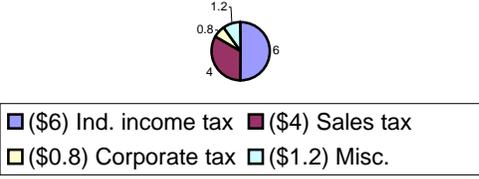
Governing Wisconsin: "Wisconsin Taxes"

Study Questions

1	What are the three most common taxes used by state and local governments?	
2	Why would property taxes be a more reliable way for local governments to get revenue than, for example, a local sales tax?	
3	If you buy a \$20,000 car, how much extra will you pay in state sales tax?	
4	In 2005–06, Wisconsin collected \$12 billion in taxes. Make a pie chart to show how much was collected from individual, corporate, and sales taxes. (There were \$1.2 billion in misc. taxes.)	
5	There is an obesity epidemic among young people. Would you be in favor of a 1 percent "snack tax" if the money were used to improve wellness programs at schools? Why or why not?	
6	Think of one other tax scheme that might encourage/discourage certain behaviors. What are some arguments for and against your idea?	

Governing Wisconsin: "Wisconsin Taxes"

Study Questions in the Cognitive Domain

1	What are the three most common taxes used by state and local governments?	Property tax, income tax, sales tax.	Cognition								
2	Why would property taxes be a more reliable way for local governments to get revenue than, for example, a local sales tax?	It is easier for the local government to estimate the value of property and charge owners a fixed value. Sales taxes will fluctuate more from year to year, depending on how much and what people buy.	Comprehension								
3	If you buy a \$20,000 car, how much extra will you pay in state sales tax?	State sales tax is 5 percent, so you will pay \$1,000 (\$20,000 x 0.05).	Application								
4	In 2005–06, Wisconsin collected \$12 billion in taxes. Make a pie chart to show how much was collected from individual, corporate, and sales taxes. (There were \$1.2 billion in misc. taxes.)	<p style="text-align: center;">Wisconsin General Fund, 2005-06 (\$12 billion)</p>  <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>■ (\$6)</td> <td>Ind. income tax</td> <td>■ (\$4)</td> <td>Sales tax</td> </tr> <tr> <td>■ (\$0.8)</td> <td>Corporate tax</td> <td>■ (\$1.2)</td> <td>Misc.</td> </tr> </table>	■ (\$6)	Ind. income tax	■ (\$4)	Sales tax	■ (\$0.8)	Corporate tax	■ (\$1.2)	Misc.	Analysis
■ (\$6)	Ind. income tax	■ (\$4)	Sales tax								
■ (\$0.8)	Corporate tax	■ (\$1.2)	Misc.								
5	There is an obesity epidemic among young people. Would you be in favor of a 1 percent "snack tax" if the money were used to improve wellness programs at schools? Why or why not?	This is an opinion question, but teachers might note that there is currently an excise tax on tobacco and alcohol, which brought in \$370 million in state revenue in 2005–06. This is part of the miscellaneous funding listed above.	Synthesis								
6	Think of one other tax scheme that might encourage/discourage certain behaviors. What are some arguments for and against your idea?	Some possibilities: Gas taxes to reduce driving, pollution taxes on corporations, the tobacco and alcohol taxes listed above. The state can also encourage certain behaviors through tax credits, for example: buying a hybrid car, installing solar panels, making donations to charitable organizations.	Evaluation								



The Role of Political Parties in Wisconsin Government

WHAT IS A POLITICAL PARTY?

One definition of a political party is a private, voluntary organization of people with similar political beliefs that competes with other parties for control of the government. Political parties help voters select their government officials and create a consensus on the basic principles that direct governmental activities and processes. For federal elections, a political party is an organization that has a candidate on the ballot, but since state law governs ballot access, each state decides when a political organization qualifies as a “political party.” Even though the states have different laws, they usually require nonmajor parties to prove sufficient voter support to qualify for ballot access.

Recognized political parties in Wisconsin are those that either had a candidate in the last general election receive at least 1 percent of the total vote or have collected, from January 1 to June 1 of the election year, a minimum of 10,000 voter signatures on a petition, with at least three separate congressional districts having 1,000 voter signatures or more. At the beginning of 2005, Wisconsin had five recognized political parties: Constitution, Democratic, Libertarian, Republican, and Wisconsin Green.

HOW POLITICAL PARTIES OPERATE

State party chairpersons are the primary leaders within the state

parties and are responsible for the party headquarters, field staff, finance, and communication with elected officials and local party leaders. While historically the party chairperson is an unpaid position, Wisconsin has started to join other states in hiring full-time, paid party chairpersons. Although the party chairperson is ultimately in charge, the executive director often runs the day-to-day operation of the party.

Political party membership is a voluntary step that individuals take to become more involved with their party. Members join the local party units, pay dues to the party, attend party meetings and conventions, contribute money, and often volunteer to work on the political campaigns. The basic unit of most political parties is the county organization and those who attend their county caucuses (meetings for party members only).

Party delegates from the political party’s local units meet in an annual state convention to create a new or change the current state party platform (a statement of its principles and objectives), select national committee members, elect state officers, consider resolutions, and conduct other party business. Every four years, party delegates from throughout the United States meet in a national convention to

nominate candidates for president and vice president and to adopt a national platform for the next four years. In Wisconsin, the selection of national convention delegates is usually based on the results of the April presidential preference primary vote.

ROLES OF POLITICAL PARTIES AND COMMITTEES IN CAMPAIGNS

Political parties provide campaign support in the form of direct campaign contributions, fund-raising assistance, polling, media consulting, and get-out-the-vote drives. With the growing influence of candidate and legislative campaign committees, political party organizations have had to adjust to having less control over their party’s election campaigns. One way has been for political parties to increase their efforts in party building and campaign activities, like get-out-the-vote drives, that take a significant number of volunteers and extensive local organization. With expansive networks and significant barriers to entry, the two major political parties have successfully kept third parties out of contention for most national and state offices. Of Wisconsin’s major elected partisan (between political parties) offices in January 2005, the Democrats held the positions of governor, lieutenant governor, secretary of state, and attorney general, as well as both U.S. Senate seats and four of the eight congressional seats.

Republicans filled the position of state treasurer, held the other four congressional seats, and controlled both the state senate and assembly.

Candidate committees, created by the candidates themselves, manage the political campaigns independently from political party direction. Owing to this shift in control, American politics has been described as “candidate centered.” This movement away from choosing candidates based on political party alone has increased the occurrence of split-ticket voting (voting for candidates from different parties). Some contend that this has resulted in the current trend of divided governments (executive branch controlled by one party and legislative branch controlled by another).

Legislative campaign committees exist to help fellow party members get elected. In Wisconsin, legislative campaign committees are made up of current elected officials, with their own staff and officers, chosen by the party caucuses in the state assembly and senate. These campaign committees are able to raise funds based on their status as incumbents (those already holding office), and use these funds to hire staff and consultants, as well as to contribute directly to candidates. These committees are involved in recruiting and training candidates and their support staff.

WHAT ROLE DO POLITICAL PARTIES PLAY IN THE LEGISLATIVE PROCESS?

Party caucuses are the foundation of party organization in the legislature. The Wisconsin Senate and Assembly, which are the two houses of the legislature, each have Democratic and Republican party caucuses. A joint caucus occurs when members of the same party in

BRIEF HISTORY OF POLITICAL PARTIES IN WISCONSIN

Statehood in 1848 to 1855: The Democratic Party won the majority of elections against the other major party of the time, the Whig Party.

1854: The Republican Party was founded in Ripon, Wisconsin. The Republican Party replaced the Whig Party in the 1850s.

1856 to 1900: The Republican Party dominated the political scene by winning a large majority of elections and controlling the top political positions in the state.

1900 to 1932: The major political battles occurred between two groups within the Republican Party, the conservative “stalwart” Republicans and the “progressive” (La Follette) Republicans, influenced by the political ideologies of Governor and then Senator Robert M. La Follette.

1934 to 1946: The progressive Republicans officially split from the Republican Party in 1934 and became the Progressive Party, which won gubernatorial (to elect the governor) elections in 1936 and 1942, as well as a majority in both houses of the legislature in 1936. The Progressive Party dissolved in 1946 due to declining support.

1946 to present: Realignment of parties started in the late 1940s with some former Progressives and Socialists moving into the Democratic Party. The conservative members of the Republican Party solidified their control with the departure of more liberal-minded Progressives and the addition of conservative Democrats leaving their party as it became more liberal. After World War II, the Democratic Party started to grow in strength and by the late 1950s had become a successful contender to the Republican Party. Since then, control of the government has shifted back and forth.

both houses meet. The party caucuses help party members maintain a unified position on critical issues by meeting regularly and whenever called together by party leaders. A caucus meeting is scheduled for after the general election, but before the opening of the legislative session to select candidates for

various leadership positions in each house.

Leadership in Wisconsin’s legislature is elected by majority vote in each house, with the senate electing a senate president and president pro tempore, and the assembly electing a speaker and speaker pro tempore. Pro tempore, which means “for the time being,” indicates that the position acts as a temporary substitute when needed. Both houses have floor leaders elected by each party: the majority leader, assistant majority leader, minority leader, and assistant minority leader.

Standing committees focus on specific issues in each house (or both houses in a joint committee) by holding public hearings on legislation, conducting studies, and voting to (or not to) recommend passage of bills. Wisconsin Senate rules require that each state senator serve on at least one committee, but the Committee on Senate Organization sets the number of members. Usually, representation in a committee is based on the proportion of each party in the senate, but it is up to the senate majority leader to appoint the members. Under Wisconsin Assembly rules, the speaker determines the number of members, decides the division between parties, and appoints majority members directly and minority members based on the nomination of the assembly minority leader. As with the senate, each member usually serves on at least one committee.

Governing Wisconsin: "Role of Political Parties"

Study Questions

1	How many political parties have been recognized by the Wisconsin government? List them.	
2	Why is there a trend toward "split-ticket" voting?	
3	If the senate consisted of 15 Democrats and 18 Republicans and the assembly, 55 Democrats and 44 Republicans, which party would hold the two leadership positions in the each house? Why?	
4	Do political parties actually exercise governmental powers?	
5	If the five recognized political parties each had approximately equal membership, how would this affect the legislature's leadership?	
6	George Washington noted that party loyalties can be "useful checks" on the administrative branch, but there is "danger of excess." What are the dangers of excessive party loyalty?	

Governing Wisconsin: “Role of Political Parties”

Study Questions in the Cognitive Domain

1	How many political parties have been recognized by the Wisconsin government? List them.	There are five recognized parties: Constitution, Democratic, Libertarian, Republican, and Wisconsin Green.	Cognition
2	Why is there a trend toward “split-ticket” voting?	Because candidates today are likely to run their own political campaigns there is less party control, creating a “candidate-centered” environment. When people feel like they are voting for a person and not the party, they are more likely to vote a split ticket and choose candidates from different parties.	Comprehension
3	If the senate consisted of 15 Democrats and 18 Republicans and the assembly, 55 Democrats and 44 Republicans, which party would hold the two leadership positions in the each house? Why?	Senate: Because there is a Republican majority, they will elect both a Republican president and president pro tempore. Assembly: Because there is a Democratic majority, they will elect both a Democratic speaker and speaker pro tempore. Each party will have floor leaders in each house.	Application
4	Do political parties actually exercise governmental powers?	Parties affect the organization and leadership of the legislative branch, but they do not actually exercise governmental powers; that is, they have no real power outside of the people acting on behalf of the party's interests.	Analysis
5	If the five recognized political parties each had approximately equal membership, how would this affect the legislature's leadership?	Parties would most likely form coalitions to get enough votes to elect the leadership of a house. For example, the Libertarian Party might agree to vote for the Republican candidate for speaker if the Republicans promised to work on passing particular laws about which the Libertarians care.	Synthesis
6	George Washington noted that party loyalties can be “useful checks” on the administrative branch, but there is “danger of excess.” What are the dangers of excessive party loyalty?	Washington worried that parties would distract from the “common good.” Or, people might care more about their party's power than what is good for the nation. Parties can interfere with free thinking if people are easily swayed by partisan rhetoric. A two-party system may tend to crowd out other parties and their ideas.	Evaluation

Lesson Plan: Let's Party! Wisconsin's Political Parties

Note: This lesson is most appropriate for high school classrooms.

THEME

What political parties are in Wisconsin, and how would I become involved?

MATERIALS

Internet lab

Printer

Video camera or cassette / DVD recorder (if available)

TV with VCR / DVD player (if available)

Cassette player (if available)

METHOD

This lesson plan involves three class periods of 45–50 minutes per period.

DAYS ONE and TWO

1. Have students read, or prepare a short lecture on, *Governing Wisconsin: "The Role of Political Parties in Wisconsin"* See http://www.legis.state.wi.us/lrb/gw/gw_2.pdf.
2. Divide class into nine groups that will represent political parties. Each group will be a member of one of the following political parties: Democratic, Green, Libertarian, Natural Law, Reform, Republican, Socialist, America First and Constitution.
3. Each group will create a brochure discussing and promoting its party's ideology on the following issues relating to the state of Wisconsin: environment, education, gun control, abortion, and welfare. Each group must include on its brochure a Web site that provides information about how to get involved in the party. Groups must print enough copies of their brochures for each student in class. A list of necessary Web sites is below.
4. Each group will create a commercial between 2–3 minutes long on video, DVD, or cassette that promotes the party's ideology concerning the issues each group has studied. If you do not have these tools at your disposal, the groups can act out a live commercial in front of the class.

DAY THREE

Each party will hand out its brochure to each student in class. The groups will then share their commercials with the class. While the parties are sharing commercials, the rest of the class will complete the "Do I Agree?" handout. (See "Downloads" to obtain this handout. Directions are printed on the handout itself.)

AUTHOR'S NOTES

1. Teachers are encouraged to pick any five issues that are most appropriate for their students to examine.
2. It would be helpful for students to have prior knowledge of political ideology / political spectrum.
3. The teacher may choose to share the results of the "Do I Agree?" worksheet with the class by calculating what percentage of the students agreed the most with each party.

ASSESSMENT STRATEGIES

1. Students will evaluate their own political leanings by filling out a "Do I Agree?" handout. The directions for this handout are contained on the handout itself. This handout can be downloaded and printed by going to the "Downloads" heading on this page. The teacher should collect the completed handouts.
2. The teacher will evaluate the brochures and commercials using the rubric provided, which can be downloaded and printed by going to the "Downloads" heading on this page.

ENRICHMENT SUGGESTIONS

Using the Web site included on each group's brochure, students will request, obtain, and hand in literature received from a party different from the one assigned to them.

SUGGESTED WEB SITES

- Democratic Party of Wisconsin home page: <http://www.wisdems.org/>
- Green Party of Wisconsin home page: <http://wisconsinngreenparty.org/index.php>
- Libertarian Party of Wisconsin home page: <http://www.lpwi.org/>
- Natural Law Party of Wisconsin home page: <http://www.natural-law.org/states/Wisconsin.html>
- Republican Party of Wisconsin home page: <http://www.wisgop.org/>
- Socialist Party of Wisconsin home page: <http://www.spwi.org/>
- Constitution Party home page <http://www.cpow.org/>
- America First Party of Wisconsin: <http://americafirstparty.org/contacts/wi.shtml>
- American Reform Party of Wisconsin: <http://www.americanreform.org/ARP-State-Affiliates/wisconsin.html>

Let's Party! Wisconsin's Political Parties Brochure Rubric

Student name(s)	
Political party	
Brochure title	

Circle the appropriate score for each category.		Doesn't Meet Expectations	Approaches Expectations	Meets or Exceeds Expectations
Creativity	Students have used creativity in design.	0 1 2 3	4 5 6 7	8 9 10
Grammar, syntax, and punctuation	Students have used correct punctuation, complete sentences, proper grammar, and correct spelling.	0 1 2 3	4 5 6 7	8 9 10
Information	Information is complete, relevant, accurate, and interesting.	0 2 4 6	8 10 12 14	16 18 20
Design	Design is easy to follow and understandable.	0 1 2 3	4 5 6 7	8 9 10
↓ Additional scoring criteria ↓				
Add scores circled above.				
Grand total:				

Let's Party! Wisconsin's Political Parties Rubric for Commercial

Student name(s)	
Political party	
Commercial title	

Circle the appropriate score for each category.		Doesn't Meet Expectations	Approaches Expectations	Meets or Exceeds Expectations
Time	Presentation is between 2 and 3 minutes.	0	5	10
Content	Commercial gives clear and concise overview of topic as it relates to the assigned party and issues.	0 2 4 6	8 10 12 14	16 18 20
Language	Language is interesting and specific and uses proper grammar; uses minimal "ums" and slang words.	0 1 2 3	4 5 6 7	8 9 10
Visual quality	Commercial uses quality, professional visual that is effectively <i>integrated</i> into the presentation. (If 0, presentation is incomplete.)	0 2 4 6	8 10 12 14	16 18 20
↓ Additional scoring criteria ↓				
Add scores circled above.				
Grand total:				

Let's Party! Wisconsin's Political Parties "Do I Agree?"

Directions: After viewing each political party's commercial in class and reading their brochures, compare to your personal stance each party's stance on the issues of education, environment, gun control, abortion, and welfare. Check the boxes in the table below to show the party's stance with which you strongly agree.

Party ↓ Issue →	Education	Environment	Gun Control	Abortion	Welfare
Communist					
Constitution					
Democratic					
Green					
Libertarian					
Natural Law					
Reform					
Republican					
Socialist					

Notes on Wisconsin's Political Parties



Lobbying in Wisconsin: What Do Lobbyists Do and How Are They Regulated in Wisconsin?

WHAT IS LOBBYING?

“Lobbying” has many myths and negative connotations associated with it; however, it is an integral part of the democratic system and is founded on the principles of free speech. Lobbying is an extension of the right to “... petition the government for a redress of grievances,” as stated in the First Amendment to the U.S. Constitution. Lobbyists attempt to influence government by supplying information to lawmakers on behalf of certain groups. Wisconsin has a long history of lobbying activity, and the practice has been regulated by state law since 1858.

The term “lobbyist” has been around since the 19th century. When it first came into popular usage, the image of a lobbyist was usually that of a cigar-smoking backroom dealer lining the pockets of politicians to pass legislation that was favorable to the interests of big-business clients. Legislative reform and education have changed that perception, and today lobbyists come from all walks of life, representing not just big-business and corporate interests, but also unions, women, minorities, seniors, the handicapped, and many other groups that petition the government for change.

A basic definition of “lobbying” is an attempt by an individual or group to influence the legislative or administrative process by communicating with elected officials. But lobbying is much more than communication

with elected officials. It also involves time spent appearing at public hearings and meetings, keeping track of developments related to policy, forming coalitions with others to achieve a mutual goal, and educating the public on the impacts of current or proposed legislation and regulation. And while lobbying is still associated with the exchange of money or favors, today a lobbyist’s real currency is the respect and reputation he or she has built with lawmakers and administrators.

EXAMPLES OF LOBBYING

Lobbying can be as simple as a constituent contacting his or her legislator by phone to express an opinion on pending legislation. Lobbying becomes more complex when larger organizations with more resources hire professionals to lobby for them. Professional lobbyists may represent many clients and serve as advocates for or against certain issues, and are given the resources to get the attention of lawmakers.

A typical example of professional lobbying would be the music industry hiring representatives to advocate for laws against music downloading and file sharing. The lobbyists would examine current legislation and regulations, as well as talk to musicians and music store owners about how current laws on online music

sharing affect them. The lobbyists may also attend legislative hearings when new legislation on copyright law is discussed to tell lawmakers how the legislation would affect the music industry. They might also hold press conferences to inform the general public on the issue and to gain wider support for their goal.

HISTORY OF LOBBYING LAWS IN WISCONSIN

An 1858 legislative investigation uncovered that officials of the La Crosse and Milwaukee Railroad Company offered bribes to induce members of the Wisconsin Legislature to cast votes in their favor when assigning land from a federal land grant. The railroad gave money as “pecuniary compliments” to legislators who voted in the railroad’s favor when the land grant bill was passed. As a result of the ensuing scandal, chapter 145, laws of 1858, was enacted “to protect the people against corrupt and secret influences in matters of Legislation” (text of act).

Today, lobbying is regulated in chapter 13 of the Wisconsin Statutes. The text states the principles behind the regulations: “The legislature declares that the operation of an open and responsible government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to freely express to any officials of the executive or legislative branch their opinions on

legislation, on pending administrative rules and other policy decisions by administrative agencies, and on current issues. ... In order to preserve and maintain the integrity of the process, the legislature determines that it is necessary to regulate and publicly disclose the identity, expenditures and activities of persons who hire others or are hired to engage in efforts to influence actions of the legislative and executive branches.” (Sec. 13.61, Wis. Stats.)

Wisconsin’s lobbying law has been revised several times since its creation in 1858. A brief history of the lobbying law follows:

1858: The state’s first lobbying law is enacted. Responsibilities for administering the law are placed under the Wisconsin Secretary of State.

1899: A lobbying registry is created for every person, corporation, or association that employs a lobbyist. The registry further identifies the subjects of lobbying efforts. It requires regular reporting of lobbying expenses.

1905: Personal, direct attempts by paid lobbyists to influence legislators are prohibited, other than through appearances at committee hearings, public addresses, or in widely distributed written statements.

1947: Lobbyists are required to obtain licenses. Attempts to influence votes through promises of support or opposition at future elections are prohibited, as is engaging in any practice that could discredit the practice of lobbying the legislature.

1965 and 1977: These laws again revise the regulations on the registration, licensing, reporting, and practice of lobbying.

1989: Responsibility for overseeing the lobbying law is transferred to the Wisconsin Ethics Board. The definition of lobbying activity is broadened and the expenditure reporting requirements are expanded.

1997: Lobbying principals are required to identify the bills and proposed rules in which they took an interest within 15 days of making their first communication on it. Reporting requirements regarding the time and money spent for certain lobbying activities are also established.

1999: The reporting requirements are extended to the topics of lobbying for unintroduced bills and proposed administrative rules.

HOW LOBBYING IN WISCONSIN IS REGULATED TODAY

The Wisconsin Ethics Board administers the lobbying law. For the 2003-2004 legislative session, the Ethics Board indicated in its *Lobbying Report* that lobbying-related expenditures totaled \$48.8 million; the average lobbying expenditure was \$69,000. According to the report, 707 organizations registered to lobby, while 677 lobbyists were licensed to lobby for one organization and 140 were licensed for multiple organizations.

Hours devoted to lobbying-related matters totaled 442,000. For the first six months of 2005, the Ethics Board has indicated that 658 lobbying organizations reported a record expenditure of \$16.2 million and 145,000 hours lobbying the legislature and state agencies.

By law, an organization that pays someone to try to influence legislation or agency rules is required to register with the state as a “lobbying principal,” unless that organization or its activities are specifically exempted from registration requirements. In addition, the law says that a person who works for a lobbying principal must obtain a lobby license before communicating with state officials. Both the lobbying principal and the lobbyist must pay a fee to register with the state.

With certain limited exceptions, no lobbying principal or lobbyist may give anything of monetary value to an elected state official, a candidate, an agency official, or a legislative employee. Items of monetary value include lodging, transportation, meals, and money. However, campaign contributions can be made to a candidate during the five months prior to the November elections. In addition, lobbyists cannot ask officials or candidates for money or employment dependent on whether a bill passes or fails.

Lobbying principals are required to report all bills and rules, established or proposed, and the topics on which it makes a lobbying communication. This must be done within 15 days of the first communication. The reports are sent to the Ethics Board. A daily itemized list of time and expenditures related to lobbying activity is required of both the lobbying principal and the lobbyist.

WHY REGULATION IS IMPORTANT

Lobbyists have done much to change the popular image of the profession over the last century, and many have earned the respect of policymakers. Working closely with lobbyists, Wisconsin lawmakers have regulated lobbying to make sure that no inappropriate lines are crossed when it comes to peddling influence. The laws attempt to ensure a level playing field for individuals who do not have many resources to lobby local or state officials. After all, lobbying is based on the idea that everyone has the right to address his or her government.

By Lauren Jackson, Publications Editor and Clark Radatz, Legislative Analyst
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 8, November 2005

Governing Wisconsin: "Lobbying in Wisconsin"

Study Questions

1	Who, or what, is a "lobbying principal"?	
2	What are the two main things the law requires lobbyists and lobbying principals to do?	
3	How does the U.S. Constitution protect the right of lobbyists to attempt to influence the legislature?	
4	Why did the state begin to regulate lobbying?	
5	Considering the trend in lobbying law in Wisconsin, what new laws might the legislature enact?	
6	Does the law go too far in prohibiting a lobbyist from purchasing a meal for a member of the legislature?	

Governing Wisconsin: “Lobbying in Wisconsin”

Study Questions in the Cognitive Domain

1	Who, or what, is a “lobbying principal”?	A person who or an organization that pays someone to influence legislation or the adoption of agency rules.	Cognition
2	What are the two main things the law requires lobbyists and lobbying principals to do?	Lobbyists must register with the Ethics Board*, and they must make periodic reports of their lobbying activity. (*In 2008, the Government Accountability Board replaced the Ethics Board.)	Comprehension
3	How does the U.S. Constitution protect the right of lobbyists to attempt to influence the legislature?	The First Amendment guarantees the right of the people to petition the government for a redress of grievances.	Application
4	Why did the state begin to regulate lobbying?	The legislature decided to regulate lobbying in 1858 to protect the people from corrupt and secret influences affecting legislation because of a scandal when a railroad company bribed legislators to vote for land grants that favored the railroad.	Analysis
5	Considering the trend in lobbying law in Wisconsin, what new laws might the legislature enact?	The law could be changed to require earlier and more thorough reporting of lobbying activity; the definitions of lobbying could be expanded to include other activities; and tighter restrictions on campaign contributions could be enacted.	Synthesis
6	Does the law go too far in prohibiting a lobbyist from purchasing a meal for a member of the legislature?	1. YES. Disclosure of the purchase is sufficient. The lobbyist and the legislator should be required to report the purchase. 2. NO. The prohibition keeps the playing field level for persons who do not have the resources to buy meals for legislators.	Evaluation

Lesson Plan: Lobbying Power!

Note: This lesson is most appropriate for high school classrooms.

THEME

What do lobbyists in Wisconsin do?

MATERIALS

Internet access to or copies of “The 3 Rs of Lobbying in Wisconsin” and *Governing Wisconsin: “Lobbying in Wisconsin.”*

<http://www.ethics.state.wi.us/Forms-Publications/Guidelines/510-3Rs.pdf>

http://www.legis.state.wi.us/lrb/gw/gw_8.pdf

METHOD

Lobbying in action through individual power:

1. In advance, assign students to read the *Declaration of Independence*. See Web link below.
2. Give the students a definition of “lobbying”: “To attempt to influence or sway public officials towards desired legislation or administrative actions.” Students will learn more about lobbying, so a working definition is all they need now.
3. Generate a list of professions, such as nurses, teachers, actors, and attorneys, and ask students to choose which ones might lobby. Lead students to the correct answer: “all of them.”
4. Discuss why individuals and groups might use lobbyists to advance their agendas. The discussion should mention lobbyists’ connections and expertise within their subject areas.
5. Create a scenario involving lobbying that applies to the students’ current lives. Have students pick out who the lobbyist is in the scenario to check for understanding of the term. Also ask students to write down reasons for the lobbyist’s success. Have some students share their ideas.

Example scenario: A student, Beckie, is having trouble with her class schedule. In order for Beckie to arrive to work on time, she needs to be on a schedule that allows her to take earlier classes. She has met with her counselor to see if she could get this changed and has met with her employer. Neither party would budge. Beckie went to her parents to see if they had any ideas about how to help her solve her problem. They discussed how her employer cannot change the work situation for Beckie, as it would disrupt the rest of the company. School looked to be the best chance at solving her dilemma. Her mother offered to go into the school and talk to the counselor on Beckie’s behalf. Beckie’s mother just happened to have helped the counselor obtain her job. And the counselor knew she needed Beckie’s mother’s support in the upcoming school board elections to keep her job. After the meeting, Beckie and her mother left with a feeling of success, because Beckie was now going to have the schedule she needed. Who is the lobbyist in this scenario?

6. Instruct students to read the information provided in the “Three Rs of Lobbying” and *Governing Wisconsin: Lobbying in Wisconsin*. (See [Web sites and printable attachment below](#)) and complete a keyword graphic organizer (see notes).
7. In small groups, students should discuss the main ideas in the *Declaration of Independence*. They should then relate the ideas to the concepts of lobbying, creating their own ways to represent conclusions. Brief group presentations would be appropriate here.
8. Present a current legislative proposal from the Wisconsin assembly or senate that students would find interesting (go to <http://www.legis.state.wi.us/>). For example, see 2007 Assembly Bill 464. Focus on the “Analysis by the Legislative Reference Bureau.” Students should lobby for or against the bill.
9. Students should communicate via e-mail or written letter to their legislator regarding the chosen legislation. Students are to ask for a response. (See <http://waml.legis.state.wi.us/> for contact information.)

Assessment strategies. The letter or e-mail the students write to the legislator should show an understanding of what lobbying is. The legislator’s response to the students will also demonstrate how well the students communicated their understanding of lobbying.

METHOD

Lobbying in action through group power:

1. In small groups, students should brainstorm issues about which they are concerned. These issues should be ones the students can lobby for or against. In a large group, students should list their ideas to create a large pool. Students will choose an issue in which they are interested and research a lobbying group in Wisconsin that champions their cause.
2. Students should do online research to find an appropriate Wisconsin lobbying group. If Internet access is not available, the teacher can present the information. (See <http://ethics.state.wi.us/lobbyingregistrationreports/LobbyingOverview.htm>.) If possible, students should also look at what each lobbying group has done in the past, for what issues it has lobbied, its successes and failures, etc. Each group should present to the class information about its issue and lobbying group. Presentations should include the lobbying group’s strengths and weaknesses, past lobbying efforts, and current initiatives.
3. Students should communicate with their chosen lobbying group, whether by e-mail, telephone, or written letter, about group membership, or what students can personally do to champion a cause. Students are to ask for a response.

Assessment strategies. In a written essay, have students discuss the role of lobbyists in public policy. They should also discuss in their essays why lobbyists are successful, and whether individual versus group lobbying is more effective. Students are encouraged to use their knowledge of a specific group in their comparison.

SUGGESTED WEB SITES

- Lobbying In Wisconsin: http://www.legis.state.wi.us/lrb/gw/gw_8.pdf
- “The Three Rs of Lobbying in Wisconsin”: <http://www.ethics.state.wi.us/Forms-Publications/Guidelines/510-3Rs.pdf>
- Eye on Lobbying in Wisconsin (Wisconsin Government Accountability Board): <http://www.ethics.state.wi.us/LobbyingRegistrationReports/LobbyingOverview.htm>
- *Declaration of Independence*: <http://www.law.indiana.edu/uslawdocs/declaration.html>
- *Wisconsin Briefs*: “Guide to Researching Wisconsin Legislation”: <http://www.legis.state.wi.us/lrb/pubs/wb/98wb8.pdf>
- [American League of Lobbyists](#) Web site of the national professional association dedicated exclusively to lobbying. The site also contains a page entitled [Lobbying as a Career](#).
- [Association of Junior Lobbyists](#) membership organization dedicated to the advancement of individuals who are new to the advocacy profession.
- [FirstGov.gov](#) is the official Web portal of the U.S. government. This comprehensive site provides links to all federal departments and agencies as well as state, local, and tribal government links.
- [HillZoo.com](#) is the inside-the-beltway site that lists Democrat and Republican jobs, including lobbyist jobs, on and off Capitol Hill.
- [Lobbying Tips for Women](#) from Plymouth State University is a list of lobbying tips for women; prepared by the executive director of the New Hampshire Women’s Lobby, Mary Ann Barton.
- [Lobbyists.Info](#) is the online version of Washington Representatives, which provides a detailed listing of lobbyists registered at the federal level, including the organizations they represent, addresses, phone numbers, and the issues on which they work. Requires subscription (which starts at \$430/year).
- [LobbySearch](#) is a Web-based directory of federal and state lobby firms and lobbyists.
- [Opportunities in Public Affairs](#) is a Web site that bills itself as the number-one source of Capitol Hill, Public Relations, and Public Affairs jobs in the Washington DC area. Requires subscription (\$8.95 per issue). There is a [Capital Hill Job Guide](#).
- [Politics1](#) is the most comprehensive online guide to U.S. politics; includes a job bank of campaign and political staff positions.
- [Roll Call](#) is the online version of the *Newspaper of Capitol Hill*. It comes out weekly and covers all of the political activity in Washington DC. *Roll Call* also has a section called [RCJobs](#), a political job site.
- [State and Local Government on the Net](#) is a site that provides state government links for all 50 states, including all branches of government, counties, cities, towns and villages.
- State of Wisconsin Government Accountability Board, <http://elections.state.wi.us/index.asp>. This site identifies all the organizations lobbying in Wisconsin, the state agencies, as well as individual licensed lobbyists.
- [The Hill](#) is the online version of the newspaper billed as the newspaper for and about the U.S. Congress. [The Employment Section](#) lists opportunities on Capitol Hill.

Text of the Declaration of Independence of the Thirteen Colonies
CONGRESS, July 4, 1776

The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. --That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. —Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain [George III] is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good. He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power. He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us, in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people. Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by the Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

Source: <http://www.law.indiana.edu/uslawdocs/declaration.html> (accessed August 1, 2008).



Referenda and Recall: Letting the People Decide

The American system of government is based on representative democracy, in which the people elect individuals to make, enforce, and interpret the laws under which we live. A referendum, however, is an example of direct democracy, in which the voters decide a question at the polls. In a referendum, the voters determine whether a law will take effect or express their opinion on an issue. A referendum can be initiated by the filing of petitions signed by electors, or it can be called at the discretion of a legislative body. There are also situations in Wisconsin in which a referendum must be held.

A recall is an election, initiated by the people, to decide whether an elected official will remain in office and, if removed, who will replace the officer for the remainder of the term.

REFERENDA

In Wisconsin, referenda are mandatory in some situations and optional in others. There are two main types of referenda: binding and advisory. In a binding referendum, a measure takes effect if approved by the voters. An advisory referendum is conducted for opinion purposes only—the legislative body is not bound by the results. The state legislature and any local government lawmaking body may choose to hold an advisory referendum on an issue.

Binding referenda are required for the ratification of amendments to the state constitution, certain school district bonding measures, and proposals to exceed the state-imposed school district revenue limits. Electors may also compel, via petition, a referendum vote on recently enacted city or village charter ordinances, changing the location of the county seat, abolishing the office of elected county executive, creating the position of appointed county administrator, incorporating a new city or village, consolidating two or more adjoining counties, changing the size of a county board of supervisors, and annexing adjacent land to a city or village.

DIRECT LEGISLATION

Initiative in cities and villages. The initiative is a procedure that enables citizens to propose and enact a law, ordinance, or resolution through a referendum. Unlike many states, Wisconsin does not provide for a statewide initiative process. However, a form of the initiative is available for residents of Wisconsin cities and villages. Under the procedure, residents may circulate petitions signed by a number of eligible electors equal to at least 15 percent of the votes cast for governor in the last general election in the city or village. If the city or village clerk certifies that there are

a sufficient number of valid signatures, and the petition and proposal are in proper form, then the city council or village board must either adopt the proposed ordinance or resolution within 30 days or submit it to a referendum.

If the council or board does not pass the proposal, the ordinance or resolution will be submitted to the electors to decide in a referendum. The council or board, by a three-fourths vote of the elected membership, may order a special election for the purpose of conducting a referendum on the proposal, but not more than one special election for direct legislation may be ordered in any six-month period.

“Yes” or “no” question; no veto allowed. The ordinance or resolution need not be printed in its entirety on the ballot, but a concise description must be printed together with a question permitting the elector to indicate approval or disapproval by a “yes” or a “no” vote. City ordinances or resolutions adopted by direct legislation are not subject to the veto power of the mayor, and city or village ordinances or resolutions adopted by referendum may not be repealed or amended within two years of adoption, except by a subsequent referendum.

The power to initiate ordinances and resolutions was granted to city residents in 1911. Counties were originally included in the law, but

the provisions for county direct legislation were repealed in 1943. In 1989, the initiative power was extended to village residents.

A notable example of referendum legislation was in April 2004 when residents of the village of Mount Horeb enacted an ordinance to require that any construction project costing over \$1 million and financed in whole or in part by municipal funds first be approved in a referendum. The ordinance was originally proposed via petitions submitted in 2001, but the village board determined that the measure was not a suitable subject for direct legislation and neither adopted the ordinance nor placed it on the referendum ballot. After a group of citizens took the matter to court, the Wisconsin Supreme Court concluded in July 2003 that the ordinance was appropriate, and the village board placed it on the ballot.

RECALL

Recall is the procedure by which electors submit petitions to force an election to decide whether an incumbent elected official will remain in office. A recall petition may be filed after the completion of the first year of office, but only one recall petition may be filed against any official during the same term of office.

Officers subject to recall. A recall may be held for the elective executive branch officers of the state (governor, lieutenant governor, secretary of state, state treasurer, attorney general, superintendent of public instruction); state legislators; district attorneys; members of the U.S. Congress; members of the judiciary; and elective officers of counties, cities, villages, towns, and school districts. The recall of city

officials was authorized by a law passed in 1911; the ability to recall state, congressional, judicial, legislative, and county officials was created by a constitutional amendment ratified in 1926; and the ability to recall officials of villages, towns, and school districts was created by a law enacted in 1978.

Reasons required for recall of local officials. A recall petition for a city, village, town, or school district officer must contain a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought. No reason need be provided for other offices. The recall has most often been used against those accused or convicted of official misconduct or serious criminal acts, but recall efforts arising from disagreements over public policy choices have become increasingly common.

Signature requirements and time limits. Recall petitions for state, judicial, or county officials, or members of Congress or the state legislature, or district attorneys must have valid signatures of electors equaling at least 25 percent of the total vote cast for the office of governor in the last preceding election. Recall petitions for city, village, town, or school district officers must be signed by electors equal to at least 25 percent of the vote cast for the office of president at the last election. Petition signatures for the recall of state, judicial, county, congressional, or legislative officials, or district attorneys, must be gathered within a 60-day period. The signature-gathering period is 30 days for recalls in cities, villages, towns, or school districts.

Primary elections. When more than two persons compete for a nonparti-

san office, a recall primary is held. The two persons receiving the highest number of votes in the recall primary appear on the recall ballot, except that if any candidate receives a majority of votes in the primary election, that candidate automatically assumes office for the remainder of the term. For any partisan office, a recall primary is held for each political party that is by law entitled to a separate ballot and from which more than one candidate files for the party's nomination in the recall election. Unless he or she resigns, the incumbent's name automatically appears on the recall ballot. The winner of the recall ballot assumes office for the remainder of the term.

A noteworthy use of the recall was the unseating of seven members of the Milwaukee County Board of Supervisors in 2002 due to controversy resulting from the implementation of costly changes to the pension system for county employees. Two state legislators have been successfully recalled: Senator George Petak, Republican of Racine, in June 1996, and Senator Gary George, Democrat of Milwaukee, in November 2003.

By Dan Ritsche,
Senior Legislative Analyst
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 13, February 2006

Governing Wisconsin: "Referenda and Recall"

Study Questions

1	To file a recall of one of your legislators, how many petitions would you need to collect? How many days would you have to collect them?	
2	If the legislature wanted to find out how the people of Wisconsin felt about the death penalty, would it initiate a binding referendum or an advisory referendum?	
3	How can the effect of a binding referendum in a municipality be reversed? By veto? By amendment?	
4	The 2006 death penalty vote resulted in 2,095,449 total votes; 1,163,163 "yes" votes, and 932,286 "no" votes. What percentage of voters supported reinstating the death penalty?	
5	Reread the paragraph on binding referenda. Write a ballot question for a proposed referendum.	
6	Is it fair that a person who has been elected to public office can be removed in a recall election?	

Governing Wisconsin: “Referenda and Recall”

Study Questions in the Cognitive Domain

1	To file a recall of one of your legislators, how many petitions would you need to collect? How many days would you have to collect them?	You would need to collect 25 percent of the total votes cast in the last governor's race. You would have 60 days to collect them.	Cognition
2	If the legislature wanted to find out how the people of Wisconsin felt about the death penalty, would it initiate a binding referendum or an advisory referendum?	The legislature would initiate an advisory referendum. In 2006, the legislature voted to put this question on the ballot: “Should the death penalty be enacted in...Wisconsin for cases involving a person who is convicted of first-degree intentional homicide, if the conviction is supported by DNA evidence?”	Comprehension
3	How can the effect of a binding referendum in a municipality be reversed? By veto? By amendment?	The ordinance enacted by a referendum cannot be vetoed, nor can it be amended for a period of two years. The only way to change it sooner would be to put it on the ballot again.	Application
4	The 2006 death penalty vote resulted in 2,095,449 total votes; 1,163,163; “yes” votes, and 932,286 “no” votes. What percentage of voters supported reinstating the death penalty?	Of the total votes cast, 55.5 percent voted “yes” (1,163,163 of 2,095,449) and 44.5 percent voted “no” (932,286 of 2,095,449).	Analysis
5	Reread the paragraph on binding referenda. Write a ballot question for a proposed referendum.	Many ballot questions can go here. Students might research the 2008 ballot question on the “Frankenstein veto” for format. One example: “Shall...the constitution be amended to require Wisconsin citizens who are under the age of 18 to observe a curfew between midnight and 5:00 a.m.?”	Synthesis
6	Is it fair that a person who has been elected to public office can be removed in a recall election?	Yes, especially if the officeholder has been guilty of misconduct. To ensure fairness, only one recall petition may be filed against an official in each term.	Evaluation



An Informed Public: Part One *The Open Meetings Law*

A GOVERNMENT “DEPENDENT UPON AN INFORMED ELECTORATE”

Wisconsin recognizes that a representative government is “dependent upon an informed electorate,” and that the public is entitled to the most complete information possible regarding the affairs of its government as is compatible with the running of government business. The Wisconsin Legislature has incorporated this policy into the laws concerning government meetings and records in this state. One of those laws, the open meetings law, is based on the principle that the operations of state and local governments should be exposed to the “full light of day” in order for citizens to participate in their democracy.

WHEN AND HOW THE LAW APPLIES

The Wisconsin open meetings law applies to virtually all meetings of all state and local governmental bodies. Examples of governmental bodies are the state assembly, a city council, a town board, and a school board. Governmental bodies are defined in the law based on how they are created, rather than on what authority they have. A meeting is defined as the gathering of the members of a body for the purpose of exercising the authority, powers, or duties invested in that body. A meeting is generally assumed to take place and subject to the open meetings law if one-half or more of the members come

together. The open meetings law also applies in some cases if less than half of the membership meets. Social or chance gatherings are not subject to the law.

The open meetings law states “Every meeting of a governmental body shall be preceded by public notice ... and shall be held in open session.” “Open session” is defined as a meeting held in a place reasonably accessible to members of the public and open to all citizens at all times. With certain exceptions, all action taken at a meeting must be initiated, discussed, and acted upon in open session. Members of the public have the right to tape record or videotape meetings in open session provided they do not disrupt the meeting. While citizens have the right to attend open session meetings, the law does not grant them the right to participate in those meetings. Other laws in the Wisconsin statutes provide for public hearings on certain matters before certain types of governmental bodies where citizens can voice their opinions.

PUBLIC NOTICE

The open meetings law details how public notice must be given prior to any meeting. The chief presiding officer of a body must communicate the notice to the public, to

news media who have filed a written request for a notice, and to the official newspaper for that area. If there is no official newspaper, notice must be given to a news medium likely to give notice in the area. The requirement to notify the public is distinct from the requirement to give notice in the official newspaper; so if the presiding officer chooses to notify the public through the newspaper, he or she must ensure that the notice is actually published.

Public notice must be given at least 24 hours prior to a meeting. Shorter notice may be given if the 24-hour requirement is impossible or impractical to meet, but notice may not be given less than two hours in advance of a meeting.

The content of the notice is also specified by law. It must contain the time, date, place, and subject matter of the meeting. The notice must be reasonably specific as to what subject matter will be discussed, and may not include generic terms such as “miscellaneous business” as a way to avoid disclosure of business that is likely to be discussed. The notice must also include any subjects intended for consideration during a closed session. (“Closed session” means that the meeting is closed to public access.) A notice can provide for a period of public comment, and during that period the body may discuss matters that are raised by the public even if they are not

mentioned in the public notice; however, the Wisconsin attorney general generally advises bodies not to take action (vote) on those matters.

CLOSED SESSION EXEMPTIONS

The open meetings law provides specific exemptions that allow a governmental body to convene in closed session. However, the law also states that every meeting must be initially convened in open session before it can go into closed session. The chief presiding officer must announce the business to be discussed in closed session and cite the specific exemption that authorizes the closed session. The body must then pass a motion to go into closed session. The following are some of the exemptions that allow a governmental body to convene in closed session:

- Consideration of dismissal, demotion, licensure, or discipline of a public employee or person licensed by a board or commission, or the investigation of charges against the person, or consideration of the granting or denial of tenure to a university faculty member, and the taking of formal action on any of these matters. (Closed session is not allowed here unless the person to be discussed is first given notice that the meeting will take place and that final action may be taken. The person has the right to request that the meeting be held in open session, and if he or she does so, the meeting may not be held in closed session.)
- Consideration of employment, promotion, compensation, or performance evaluation of any employee over whom the body has jurisdiction; this includes interviews of applicants for employment; it does not include

discussion of general policies, such as qualifications and salary range, that do not involve specific employees.

- Consideration of financial, medical, social, or personal information, or the investigation of charges that, if discussed in public, “would be likely to have a substantial adverse effect upon the reputation of any person” referred to or involved, unless that person requests an open session.

A body may not reconvene in open session within 12 hours of the end of the closed session unless public notice of the return to open session was given at the same time as the original meeting notice.

THE LEGISLATURE

Meetings of caucuses of the legislature, such as senate and assembly Democrats or senate and assembly Republicans, are not subject to the open meetings law, unless otherwise provided by legislative rule. If the open meetings law conflicts with a legislative rule, the rule takes precedence.

VOTING

Motions and roll call votes of meetings must be recorded, preserved, and open to public inspection under the public records law. Except in the election of a body’s officers, a body may not use secret ballots to vote.

ENFORCEMENT

The Wisconsin attorney general is required by law to give advice on and enforce the open meetings law. District attorneys can also enforce the law in their counties. If a district attorney refuses to or does not commence action on an open meetings law complaint within 20 days

of receiving it, the person who filed the complaint can bring an action to enforce the law. All actions to enforce the law must be made in the name and on behalf of the state.

If an individual wins his or her suit to enforce the law, the individual may be awarded his or her attorney fees, but any other forfeited moneys are paid to the state. The court may

The Wisconsin open meetings law applies to virtually all meetings of all state and local governmental bodies.

also grant a declaration that the law was violated; it can void certain actions made in violation of the open meetings law if the court finds that the public interest in enforcing the law outweighs the public interest in sustaining the action’s validity. Members of the body who are found to have violated the open meetings law are subject to a monetary forfeiture for each violation.

SUMMARY

Public officials have a duty to keep their actions open to the scrutiny of the public whom they serve, and the open meetings law is one way to make sure they do just that. The law also recognizes that sometimes there is a need for privacy in government matters and allows exemptions to protect that privacy. But the law is designed to be strict with such exemptions and to allow citizens to participate fully in the democratic process by giving them broad access to the information they need.

Governing Wisconsin: "The Open Meetings Law"

Study Questions

1	Do citizens have the right to record an open meeting? Do they have the right to speak at the meeting?	
2	Does the notice requirement hamper the efficient operation of a governmental body?	
3	Write a meeting notice for the next school board meeting.	
4	How do the exemptions from the open meeting requirement, which allow closed sessions in certain circumstances, protect important rights?	
5	What would happen if all meetings were open without exception?	
6	What are the disadvantages of requiring that most governmental meetings be open to the public?	

Governing Wisconsin: "The Open Meetings Law"

Study Questions in the Cognitive Domain

1	Do citizens have the right to record an open meeting? Do they have the right to speak at the meeting?	Members of the public have the right to record the meeting if they do not disrupt it. Except for some specific meetings, members of the public do not have the right to speak or otherwise participate in the meeting.	Cognition
2	Does the notice requirement hamper the efficient operation of a governmental body?	It prevents governmental bodies from acting quickly in some cases, and it may prevent the body from considering an issue that is raised at a meeting but was not included in the notice.	Comprehension
3	Write a meeting notice for the next school board meeting.	E.g.: "The Acme School Board will meet on January 8, 2007, at noon, at the school board office at 123 Main Street, to discuss teachers' salaries. Part of the meeting will be closed to discuss administrators' performance evaluations."	Application
4	How do the exemptions from the open meeting requirement, which allow closed sessions in certain circumstances, protect important rights?	Exemptions protect the right of privacy of persons whose financial status, employment status, government license, medical information, or criminal liability may be discussed at a government meeting, and who would be adversely affected if that information was made public.	Analysis
5	What would happen if all meetings were open without exception?	See Q4. Open meetings would violate the right to privacy of certain persons. Some members of the governmental body might be reluctant to express their true views.	Synthesis
6	What are the disadvantages of requiring that most governmental meetings be open to the public?	Government bears the added expenses of preparing and publishing notices. Some members of the body may be reluctant to discuss sensitive issues or their views in public. Meeting rooms must be larger to accommodate more people. The body cannot act swiftly in some cases.	Evaluation



An Informed Public: Part Two The Public Records Law

COMPLETE PUBLIC ACCESS

Wisconsin's public records law states that it is to be interpreted always with a presumption of complete public access, as is consistent with the operations of government. The law states that the denial of public access to records generally goes against the public interest, and that access may be denied only in exceptional cases. In other words, unless access is precluded by law or the custodian shows that good cause exists for denying access, any requester generally has a right to inspect any state or local government record in Wisconsin.

WHAT ARE "PUBLIC RECORDS"?

Under the public records law, a "record" is defined as "any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority." Not every piece of paper or computer file kept by a public office is a public record. It is the content, not the format, of a document that determines whether it is a record. Documents that are not public records include personal property that has no relation to a public office, published material available at the library or for sale, and material with limited access because of copyright, patent, or bequest. A draft document is not a record while it is being written or

revised by the writer or if it is circulated between only the writer and the person for whom the document is being drafted and if it is not used for any official purpose. Simply labeling a document "draft" does not exempt it from access under the public records law.

The official or agency that has custody of a record is called an "authority." An authority can be a state or local office, an elected official, a public body such as an agency or committee, a court of law, the state assembly or senate, certain public or nonprofit corporations, and formal subunits of public bodies. The authority confers on a "legal custodian" the full legal power to make decisions and perform the authority's public records responsibilities. An elected official is the legal custodian of his or her records as well as the records of the office; however, an official can name an employee as the legal custodian of those records. For a committee of elected officials, the chairperson or the chairperson's designee is the legal custodian of the committee's records.

ACCESSING RECORDS

Every authority, except for members of the legislature and members of local governmental bodies, is required to adopt public records access procedures and make that

information, in the form of a notice, available for public inspection by displaying it at its office. The notice must contain the following information: a description of the authority's organization, the established times and places for access to its records, the identity of its legal custodian, the methods for gaining access to the records, and all positions in the authority that

The public records law helps keep the processes of state government transparent and accessible to the public.

are high-ranking public offices, as defined by law. If an authority does not have regular office hours and requires advance notice to view a record, that information must also be included.

A person generally does not have to make his or her request for a record in writing unless he or she plans to take legal action to enforce the request. Usually a person cannot be refused in his or her request for making the request anonymously. A person need not state the reason for a request, and usually need not make the request in person.

A legal custodian can, however, impose reasonable restrictions on the manner of access to an original record if it is easily damaged or irreplaceable. Also, a request for a record without a reasonable limitation of subject matter or length of time represented is not sufficient

under law. The right of access applies only to existing records and does not require extraction of information from existing records for compilation in a new format. The legal custodian may also charge the requester the actual costs of duplicating a record.

An authority must, as soon as possible and without delay, either fill a records request or notify the requester of its intent to deny the request.

GRANTING AND DENYING ACCESS

Before granting or denying a request, a legal custodian must consider three general categories into which a records request may fall: (1) absolute right of access to a record; (2) absolute denial of access, which may be mandatory or permissive; and (3) the potential right of access as determined by the “balancing test.”

Some records with the absolute right of access are specified by state statute, such as traffic accident reports, or by court decision, such as the daily arrest log of a police department.

Some statutes or court decisions require or authorize the absolute denial of access. By statute, absolute denial of access applies to any record with information kept by an employer that contains an employee’s home address, e-mail, telephone number, or social security number, except in certain situations. Access to a record must be denied if the record contains information that relates to the *current* investigation of a possible criminal offense or possible misconduct by an employee. Trade secrets are exempt from disclosure.

Hundreds of state statutes govern access to public records relating to specific matters. Federal statutes

may also define when access to records is denied, as is the case with patient health care records. The balancing test is used when state or federal laws do not specifically authorize or direct a legal custodian to provide or withhold access to a record. Under the test, a record is accessible unless the custodian demonstrates that the public interest in nondisclosure of the record outweighs the public interest in disclosure. If the public interest in nondisclosure outweighs the public policy favoring access, the case is “exceptional.”

If an authority denies a public records request, the authority must cite specific and sufficient reasons for the denial. Citation of a statute alone may not be enough unless confidentiality of the record is authorized or guaranteed by that statute. A denial must be specific—it must give the requester adequate basis for the denial and ensure that the legal custodian exercised judgment in considering the request and did not arbitrarily deny it. The specificity also provides the requester with information that can enable him or her to prepare a legal challenge to the denial; it gives the courts a basis for review of the case if there is a legal challenge. In the event of a denial, requesters often turn to the courts for a decision. Like legal custodians, the courts make decisions on a case-by-case basis.

PERSONAL INFORMATION

Someone who requests a record that contains personally identifiable information about him- or herself generally has a greater right of access to that record than the general public. The Wisconsin Supreme Court has interpreted the law to mean that such a person is considered to be substantially different from other requesters.

With exceptions, a person is entitled to records containing personally identifiable information about him- or herself and these requests are not subject to the balancing test. Access to records with personally identifiable information is given so a person can determine what information is being kept about him or her and whether it is accurate. A person generally has the right to challenge personally identifiable information about him- or herself in a record.

Sometimes an authority must notify the subject of a record of the authority’s intent to release records that contain information about the subject. For example, an authority must notify a person if he or she is an employee who is the subject of an investigation into a disciplinary matter or employment-related violation and the records contain information relating to the investigation or violation. The law provides specific time periods for the authority to serve the record subject written notice. The notice briefly describes the record, rights of the record subject, and time periods for the subject to respond and petition a court to restrict access.

SUMMARY

The public records law helps keep the processes of state government transparent and accessible to the public. The laws are complex but designed to keep citizens informed while protecting the privacy of those who are the subjects of certain records. The public records law and the open meetings law together ensure that Wisconsinites have every chance to know how their government is run.

By Lauren Jackson, Legislative Analyst
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 17, October 2006

Governing Wisconsin: "Public Records"

Study Questions

1	Who is normally the custodian of public records?	
2	What harm could occur without the public records law?	
3	Could a Web page that is viewable only by the employees of a government agency be subject to the public records law? Why or why not?	
4	At what point does a rough draft of a government memo become a public record?	
5	What could you do if a public record contains errors in personally identifiable information about you?	
6	Of all the reasons that may be given for denying a request for a record, which is the strongest?	

Governing Wisconsin: "Public Records"

Study Questions in the Cognitive Domain

1	Who is normally the custodian of public records?	The person or group of people in charge of a government agency or other public entity is usually the custodian of records.	Cognition
2	What harm could occur without the public records law?	Without access to public records, the people could lose control of the government. If a government agency could conceal its records, it could engage in illegal or improper activities.	Comprehension
3	Could a Web page that is viewable only by the employees of a government agency be subject to the public records law? Why or why not?	Yes. The content, not the form, determines what is a public record. Visual or electromagnetic material can be a public record if it contains information that is disclosable under the public records law.	Application
4	At what point does a rough draft of a government memo become a public record?	The draft becomes a public record if it is shown to persons other than those for whom the document is being prepared, if revisions to it are complete, or if the draft is used for an official purpose.	Analysis
5	What could you do if a public record contains errors in personally identifiable information about you?	You can notify the authority or the custodian of the record, in writing, of the necessary correction. If the authority does not make the correction, you can commence a legal action in a court of law to require the correction.	Synthesis
6	Of all the reasons that may be given for denying a request for a record, which is the strongest?	The strongest reason to deny a request for a record is that disclosure would invade a person's privacy if the requested record contains personally identifiable information.	Evaluation



Special Purpose Districts: Types, Powers, and Duties

INTRODUCTION

Wisconsin has over 3,000 units of local government. These units may be placed into two categories—general purpose and special purpose. As of January 1, 2005, Wisconsin has 1,922 general units of local government. This total consists of 72 counties, 190 cities, 400 villages, and 1,260 towns. Collectively, cities, villages, towns, and counties are often referred to as “political subdivisions” of the state. General units of government exist to provide a wide variety of services, such as police and fire protection, refuse collection, public health services, and maintenance of local roads.

Wisconsin also has over 1,100 special purpose districts. As the name implies, a special purpose district (SPD) is a local unit of government that is created for one particular, or special, purpose. Although an SPD may be limited to one particular function, the scope of its authority and its impact on the people who reside within its jurisdiction may be quite great. For example, some school districts have jurisdiction over tens of thousands of children; technical college districts have jurisdictions that include multiple counties; and metropolitan sewerage districts ensure that the water you drink is safe. Other SPDs, such as public inland lake protection and rehabilitation districts, may exercise their authority over a very small geographic area and may affect only a very small number of people.

SCHOOL DISTRICTS

Wisconsin has over 440 school districts. A board, whose members are elected by residents of the district, governs a school district. School districts are usually authorized to impose property taxes on the residents of the district to pay for the buildings and educational services provided to the children who live in the district.

TECHNICAL COLLEGE DISTRICTS

Wisconsin has 16 technical college districts. Technical colleges provide an educational system that enables people to acquire occupational skills and training that prepare them to participate in the workforce. Each of these districts is governed by a nine-member appointed board, which may levy a property tax on land that is located within its jurisdiction.

SEWERAGE DISTRICTS

The state legislature created the Milwaukee Metropolitan Sewerage District (MMSD), and authorized other general purpose units of government to create metropolitan sewerage districts. Basically, these districts plan, design, construct, maintain, and operate a sewerage system for the collection, transmission, disposal, and treatment of both sewage and storm water. The districts are governed by a commission, whose members are appointed. Funds to operate a district are generated both from property taxes

and user fees that are paid by the individuals and businesses that use the district’s services. A large district, like MMSD, provides services both to people who live within its jurisdiction and to political subdivisions that are located outside MMSD’s boundaries but have contracted with MMSD for services.

SOUTHEAST WISCONSIN PROFESSIONAL BASEBALL PARK DISTRICT

The state legislature created the Southeast Wisconsin Professional Baseball Park District in 1995. It is a local unit of government, and a public corporation, that is the majority owner of Miller Park, home stadium of the Milwaukee Brewers baseball club. The baseball park district is authorized to acquire, construct, maintain, improve, operate, and manage a baseball park and related facilities, including parking lots, restaurants, parks, concession facilities, entertainment facilities, and transportation facilities. The district is authorized to issue bonds to finance its activities, which it did. (Investors give the district money to purchase a bond in return for a promise from the district to pay back the money, plus interest, over a period of years.) The money generated by the sale of the bonds was used to finance the construction of Miller Park. To generate the money that the district needs to pay off the bonds, the district imposes a sales and use tax, at a rate not to exceed 0.1 percent. The tax is imposed only within the district’s jurisdiction, which consists of these five counties: Milwaukee, Ozaukee, Racine,

Waukesha, and Washington. The district is run by a board of 13 people who are appointed by the governor, by the chief executive of each of the counties, and by the mayor of Milwaukee.

PROFESSIONAL FOOTBALL STADIUM DISTRICT

The state legislature created the Professional Football Stadium District in 1999. It is similar to the baseball park district except that it was created to renovate Lambeau Field, home of the Green Bay Packers football team. The district issued bonds to finance the renovation of Lambeau Field, and currently imposes a sales and use tax of 0.5 percent within the district's jurisdiction, which is Brown County. The district could not have imposed this tax, however, unless the tax had been approved in a referendum by the voters in Brown County. This district is run by a board of seven people who are appointed by elected local officials, including the mayor of Green Bay and the Brown County executive.

OTHER DISTRICTS

There are a number of other major SPDs in the state, including the Wisconsin Center District (WCD), in Milwaukee, and the Madison Cultural Arts District (MCAD), in Madison. The WCD owns and operates the U.S. Cellular Arena, the Milwaukee Theater, and the Midwest Airlines Center. The MCAD manages the Overture Center for the Arts, which is owned by the Overture Development Corporation. In addition, there are a number of other types of SPDs that exist in the state, such as regional planning commissions, drainage districts, town sanitary districts, and mosquito control districts. Regional planning commissions conduct research for, and provide planning information to, political subdivisions in a particular

region. Their research activities frequently address topics such as transportation systems, air and water quality, and economic development, which cut across the boundaries of individual political subdivisions. Drainage districts are involved with the construction, maintenance, and improvement of facilities that drain lands—often agricultural lands. Sanitary districts are created by towns, or upon the order of the state Department of Natural Resources, to address issues including local sewerage systems, solid waste disposal, water systems, and water pollution.

WHY HAVE SPDs?

With nearly 2,000 general purpose units of local government, why has the state created, or authorized the creation of, all of these SPDs? Some of the reasons may include the following:

1. Many of the issues faced by SPDs have a multi-jurisdictional impact that may be addressed most effectively by a body whose regional focus is broader than that of individual political subdivisions.
2. The state constitution recognizes that education is a regional issue and directs the legislature to create district schools.
3. The state constitution limits the amount of debt that each political subdivision in the state may create. Because SPDs, like the baseball park district, the football stadium district, and sewerage districts, are separate units of government, they may issue debt that is separate from the debt created by political subdivisions and therefore not subject to a political subdivision's constitutional debt limit.
4. Because the governor appoints some of the members of certain SPD governing bodies, such as the baseball park district, WCD, and MCAD,

the state can exercise some level of control over these local units of government.

5. It may be easier, from a political standpoint, for SPDs to impose taxes because the members of the governing bodies of most SPDs are appointed, rather than elected. (School board members are elected, but most members of SPD governing bodies are appointed.)

6. Appointed members of an SPD's governing body may have more specialized knowledge and subject matter expertise than an elected official.

SUMMARY

Special purpose districts have a few things in common, but they also have a fair number of differences. They are all local governmental units, they each have a governing body, and they each exercise authority within a specific geographic area. Some SPDs are actually created by state law, and some are created by political subdivisions based on authority granted by state law. The authority that may be exercised by SPDs varies widely. Some, like school districts and the baseball park district, may issue bonds for millions of dollars and may impose taxes. Others, such as regional planning commissions, serve only advisory functions. Many, such as sewerage districts, are involved in low profile, but clearly very important, functions. Although many people may be unfamiliar with SPDs and their role in providing important governmental services, SPDs truly affect the lives of every person in this state.

By Marc Shovers,
Senior Legislative Attorney
Published by the LRB, Madison WI
<http://www.legis.state.wi.us/lrb/GW>
No. 12, January 2006

Governing Wisconsin: "Special Purpose Districts"

Study Questions

1	What is the governing body of a school district? How does one become a member of that body?	
2	Explain the relationship between the Southeast Wisconsin Professional Baseball Park District and Miller Park.	
3	Miller park was financed both with private funds from the Brewers (\$90 million) and with public funds (\$310 million). How was the public money raised and how is the debt paid for now?	
4	What are some advantages to maintaining local control of schools? What if school boards were abolished and the legislature set school policies and budgets?	
5	Why is it easier for <i>appointed</i> board members (as in the park district board) to impose taxes than it is for <i>elected</i> board members?	
6	What do you think: Should public moneys, such as revenue collected from a five-county tax district, be used for professional purposes, such as Miller Park?	

Governing Wisconsin: “Special Purpose Districts”

Study Questions in the Cognitive Domain

1	What is the governing body of a school district? How does one become a member of that body?	A school board governs a school district. The residents of the school district elect school board members.	Cognition
2	Explain the relationship between the Southeast Wisconsin Professional Baseball Park District and Miller Park.	The park district is a governing body charged to oversee the construction, maintenance, financing, and facilities for Miller Park. The park is publicly owned and leased to the Brewers.	Comprehension
3	Miller park was financed both with private funds from the Brewers (\$90 million) and with public funds (\$310 million). How was the public money raised and how is the debt paid for now?	The park district borrowed money through investment bonds, which raised the funds for the park, but also created a debt. The legislature passed a law that increases by 0.1 percent the sales tax in the five counties; this revenue is used to pay back the debt with interest. The total public cost is estimated at close to \$500 million.	Application
4	What are some advantages to maintaining local control of schools? What if school boards were abolished and the legislature set school policies and budgets?	Local control allows the community to decide curriculum and funding specific to the community. School districts are more democratic and encourage local involvement. If the legislature took over educational policy making, schools would be more uniform across the state but would have difficulty meeting local needs.	Analysis
5	Why is it easier for <i>appointed</i> board members (as in the park district board) to impose taxes than it is for <i>elected</i> board members?	Board members appointed by state or local officials are less accountable to the public. It is more difficult for an elected official to be in favor of increasing taxes because people are generally opposed to taxes. Because the public cannot remove them from office, appointed boards have an easier time approving tax increases.	Synthesis
6	What do you think: Should public moneys, such as revenue collected from a five-county tax district, be used for professional purposes, such as Miller Park?	Some argue that public money should fund public purposes, like education or local parks. Others argue that projects like Miller Park generate money for the community and state by creating jobs and drawing fans who spend money at local shops and restaurants and, therefore, increase the sales tax revenue.	Evaluation



Counties, Cities, Villages, Towns: Forms of Local Government and Their Functions

STATE VERSUS LOCAL GOVERNMENT

We all live under the protections and limitations of federal and state laws. Local government also creates and enforces laws. The federal government makes public policy that affects the entire nation, like negotiating international treaties and maintaining armed forces. Under the Tenth Amendment to the U.S. Constitution, all powers not delegated to the federal government are given to the states. So, the states have police powers, for example, that the federal government does not have. State governments may then delegate some of their powers to local governments while retaining some power over the form and functions of those local governments. Many of the problems that Wisconsin residents face are local problems, and local problems often require local solutions.

TYPES OF LOCAL GOVERNMENT

In Wisconsin, no matter your place of residence, you are governed by two kinds of local governments: a county and a city, village, or town. There are currently 72 counties, 190 cities, 400 villages, and 1,260 towns in Wisconsin. The legal boundaries of cities, villages, and towns overlap the boundaries of counties, so you live within the legal jurisdiction of a county and a city, village, or town.

In general, there are two broad categories of local governments: “general purpose” local governments, which provide basic, general services used on a daily basis by all residents, and “special purpose” local governments, which offer special services targeted at a select group of residents, such as a school district. This paper examines general purpose local governments, which, in Wisconsin, include counties, cities, villages, and towns.

COUNTIES

County government is the oldest form of local government in Wisconsin. Wisconsin’s 72 counties cover every square inch of the state, so all residents live in one county or another. Some who reside in rural areas receive most government services from the county. Counties may perform only those functions assigned to them by state law. Generally, counties are responsible for social services, such as child welfare, and cultural services, such as parks. Counties also play a role in road maintenance and law enforcement, though its role in these matters overlaps similar services provided by cities, villages, and towns.

Counties are governed by a county board of supervisors. A county board is a legislative entity, whose members are elected by county voters from distinct geographic districts within the county. A county may also have one of two kinds of executive officials: a county executive, elected by county voters, or a county administrator, appointed by the board. If a county has neither a county executive nor a county administrator, it must at least have an administrative coordinator. These officials are responsible for the day-to-day management of county government. Finally, counties generally have certain elective officers, such as a county clerk, coroner, treasurer, district attorney, and sheriff. These elective officers have important roles in the operation of the county.

CITIES AND VILLAGES

Cities and villages are local governmental entities that share many common features, though they differ in population. In addition, unlike counties, cities and villages are specifically granted “home rule” authority under the Wisconsin Constitution. This authority allows cities and villages to determine their local affairs and government, subject to state laws. State law also grants cities and villages statutory home rule authority in a variety of public policy areas.

There are many standards that must be met when forming a new city or village. In general, however, population is the primary consideration. A city must have a population of at least 1,000 people if it is in an isolated rural area, or at least 5,000 people if it is in a more densely populated urban area. Depending on its population, a city is also placed into one of four classes. For example, a city with a population over 150,000 qualifies as a "first class city." Currently, Milwaukee is the only first class city in Wisconsin, though Madison has the necessary population to become first class if it so chose. If a city wants to change its class as its population increases, it must take legal steps under state law. There are differences between a first class city and other cities, and most involve increased financial responsibility for services provided in the first class city.

Villages are usually smaller than cities, but new villages must also meet population requirements. Under Wisconsin law, in an isolated rural area, a village must have a population of at least 150 to form; in a more densely populated urban area, it must have at least 2,500 residents. There are no classes for villages, but under home rule authority different villages can operate in slightly different ways.

Cities and villages differ in their political organization, but, like the state and federal governments, both are governed by a legislative body and an executive officer. Cities usually have an elected mayor and an elected common council. A city may also have a common council and a city manager appointed by members of the council. Both the mayor and the

city manager, regardless of how they are chosen, are responsible for the day-to-day administration of the city. Villages generally have a president, elected by voters from the village, and a village board, whose members are also elected. But a village can have a village manager, in lieu of a village president, who is appointed by members of the village board. Again, both the village president and the village manager are responsible for the day-to-day administration of the village.

TOWNS

Towns provide some of the same services as cities and villages, but they are organized differently. Town governments can be found in rural areas because, by law, they govern areas not included within the city or village boundaries. But towns may exist in more urban areas, just outside the boundaries of a city, for example. Towns are often geographically larger than any other kind of municipality. In fact, the entire county of Menominee is also one large town. Towns do not have home rule authority, but have those powers granted under state law. A town's most important responsibility is usually to provide road maintenance, often in cooperation with the county in which the town is located. Towns also provide other services to their residents, such as garbage service, fire and police protection, and zoning. Some towns provide some of the same services as cities and villages, and those services may overlap those provided by the county. Often, however, towns provide limited services, and residents pay lower local taxes because of it.

Towns are usually governed by a town board of three supervisors

elected by the people, though the board can have more members depending on the town's population. The town board must have a chairperson who performs executive duties and exercises executive powers. The town board may also appoint a town administrator to handle town administration. Towns are unique in their form of representation. The town board carries out all public policies and duties set at an annual town meeting. Residents over the age of 18, who are qualified to vote and have lived in the town for at least ten days before the meeting, are entitled to discuss and vote on the town's business, including the property tax level. Because almost every adult resident of a town can have a voice at this annual meeting, towns are governed by the people more directly than are cities and villages, which have boards that make these decisions. Towns are Wisconsin's version of direct democracy.

SUMMARY

In ways great and small, we are governed by counties, cities, villages, and towns. In Wisconsin, local governments are organized in similar ways. They have an executive official who manages the daily affairs of local government and a legislative body that enacts laws governing our behavior within its legal jurisdiction. Local government is important in Wisconsin because it is closest to us and impacts our lives most directly. It gives us an excellent opportunity to view government close up, and maybe even to get involved.

Governing Wisconsin: "Counties, Cities, Villages, Towns"

Study Questions

1	How many people must live in a rural area in order for it to qualify as a city?	
2	Explain how towns practice a more direct form of democracy than counties.	
3	Using a <i>Wisconsin Blue Book</i> or another resource, find the most recent report of the population of Wisconsin and the population of the county where you reside.	
4	In local elections you will be asked to vote for several county officials. Using available resources, research and list some duties of two elected county officials.	
5	If the state legislature decided that the city of Madison had a problem with teenage crime, could they pass a curfew law prohibiting Madison teens from being out after 11:00 p.m.? Why, why not?	
6	Imagine you are a member of a city council that is considering a curfew that will prohibit minors from being out between midnight and 5 a.m. List the pros and cons and explain why you think so.	

Governing Wisconsin: “Counties, Cities, Villages, Towns”

Study Questions in the Cognitive Domain

1	How many people must live in a rural area in order for it to qualify as a city?	A city in a rural area must have a population of at least 1,000.	Cognition
2	Explain how towns practice a more direct form of democracy than counties.	In town meetings, every town member over the age of 18 who has lived in the town for more than ten days may discuss and vote on the town’s business. At the county level, the elected board of supervisors are the only people who can vote on the county issues. People are more directly involved in decisions made for the town.	Comprehension
3	Using a <i>Wisconsin Blue Book</i> or another resource, find the most recent report of the population of Wisconsin and the population of the county where you reside.	In 2006, there were 5,617,744 people living in Wisconsin. (2007–2008 <i>Wisconsin Blue Book</i> , p. 801. Population by county found on p. 802.)	Application
4	In local elections you will be asked to vote for several county officials. Using available resources, research and list some duties of two elected county officials.	<i>County clerk</i> administers elections, collects records; <i>coroner</i> investigates deaths, testifies, acts as sheriff when necessary; <i>treasurer</i> manages moneys within the county, administers property taxes, reports on finances; <i>district attorney</i> is chief law enforcement officer and presents the “people’s case” during a trial.	Analysis
5	If the state legislature decided that the city of Madison had a problem with teenage crime, could they pass a curfew law prohibiting Madison teens from being out after 11:00 p.m.? Why, why not?	No. Article XI, section 3, of the Wisconsin Constitution, gives cities and villages “home rule” authority, so the legislature cannot make laws that apply to specific cities. The legislature can make laws that apply to all cities equally, so it could pass a statewide curfew law that would override any standing city ordinances.	Synthesis
6	Imagine you are a member of a city council that is considering a curfew that will prohibit minors from being out between midnight and 5 a.m. List the pros and cons and explain why you think so.	Teachers can reference the story of the Mequon council vote, July 2004. Pros: there are problems with drinking, drugs, and sexual promiscuity. Getting minors off the streets at night will help. The law supports parents by putting the law on their side. Cons: The law undermines parental authority and violates the civil rights of minors.	Evaluation



Enacting the State Budget Bill

WHAT IS THE STATE BUDGET BILL?

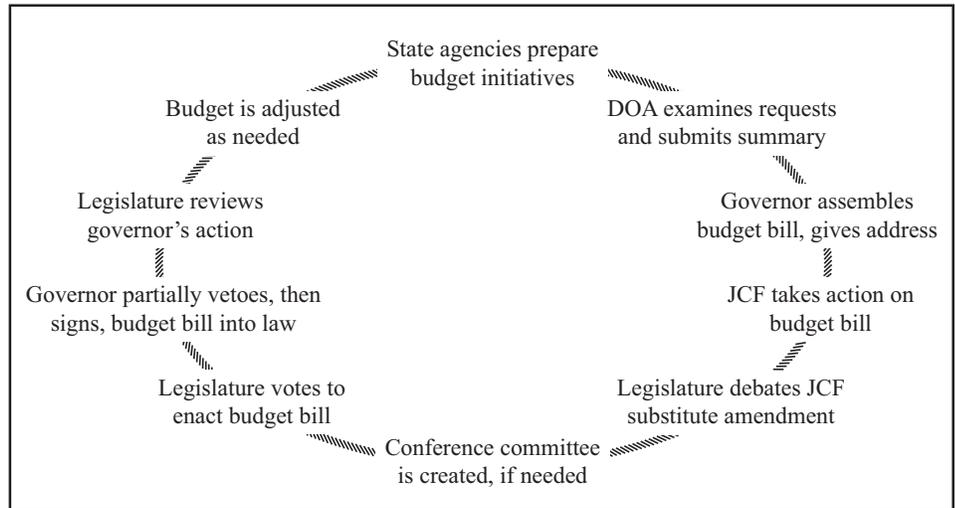
The governor proposes the state budget bill, which is modified and passed by the legislature, and signed into law by the governor. The budget bill covers state finances for a fiscal biennium, the two-year period beginning on July 1 of an odd-numbered year and ending on June 30 of the next odd-numbered year. A budget bill can often be between 1,000 and 2,000 pages long.

A new budget is due at the start of each fiscal biennium, but if it is late, the previous biennium's spending levels continue until a new budget is enacted. Wisconsin is one of only a few states with such a provision.

The budget bill fulfills the state constitutional mandate that the legislature provide funds for state government operations and programs. All state and local governmental agencies, including municipal governments and schools, receive funding through the state budget. In the 2007–09 biennium, total spending came to almost \$56.8 billion. The revenue to pay for these expenditures is collected through taxes, with some income from tribal gaming, the lottery, and state programs for which fees are charged.

FUNDING REQUESTS

Before the state budget bill can be prepared, the governor must know how much money state agencies and local governments need to operate and fund their programs. Under current Wisconsin law, every state agency must submit a budget request to the Department of Administration



(DOA) by September 15 of the even-numbered year. By November 20 of the same year, DOA must thoroughly review the requests, consolidate them into one document, and submit it, with revenue totals for the current biennium and estimated totals for the next, to the governor.

The governor has until the last Tuesday in January of the odd-numbered year to deliver the budget message to the legislature, at which time copies of the governor's budget report and budget bill are submitted to the legislature. This deadline is often delayed by two or three weeks at the governor's request.

Some budget changes require modifying or writing new policies that govern an agency or other entity. These changes are drafted at the request of the governor or the legislature, incorporated into the budget bill, and integrated into the Wisconsin Statutes after enactment.

LEGISLATIVE CONSIDERATION

After the governor's budget message, the Joint Committee on Finance (JCF) introduces the budget bill into one of the two houses of the legislature (house of origin) and begins the process of legislative consideration.

JCF review. A bill is typically sent to one or more legislative committees for review before it is debated on the floor. For the budget bill, that committee is JCF. After introduction, the bill is referred to JCF for review by the committee's eight senators and eight representatives.

As part of its review, JCF holds public hearings for input from state agencies (agency informational briefings) and the general public (public hearings). Although JCF reviews the full budget, other committees may also hold hearings to gain information on the parts of the budget affecting their areas of expertise. JCF then convenes executive sessions to examine the budget in detail and to consider alternatives

to the governor's recommendations. All proposed changes are brought to JCF as motions for discussion and for a vote. If JCF adopts a motion, the change is incorporated into a JCF substitute amendment—a modified version of the budget bill that replaces the governor's bill. Once JCF has completed its action, the substitute amendment is reported to the house of origin for consideration.

Amendments by each house. Before the legislature begins consideration of the budget bill, each party in each house caucuses to further review the budget. During a caucus, all legislators from the same political party in a house meet to go over a bill and formulate a response. Any modifications to the budget from this point on are usually drafted as amendments to the substitute amendment. Amendments can be made to the original bill, to the substitute amendment, or to any amendments to the substitute amendment.

Caucuses are often held in private, so the public can determine the inner workings only by observing the results. In 2007, the senate's majority Democrats offered only two amendments, but the minority Republicans offered 17. In the assembly, the majority Republicans offered one amendment, but the minority Democrats offered none, instead moving for a vote to reject the majority's amendment. (The motion was voted down.)

The pattern suggests that, before commencing floor debate on the budget bill, the majority party selects the changes to which it can generally agree and combines them into one larger amendment, while the minority party prepares separate amendments or doesn't introduce any at all, as in the 2007 assembly.

Once the caucuses have finished their work, the house of origin

begins general consideration of the budget bill, considering first the caucus amendments to the JCF substitute amendment, and voting to either adopt, reject, or table the amendments. When legislation is tabled, it is set aside to be discussed at a later date; however, a tabled budget amendment is unlikely to be taken up again. As a result of consensus building in caucuses, amendments are adopted or rejected on a partisan vote, with most members of the same party voting the same way.

When each amendment has been considered, the house votes on the amended substitute amendment. If the house of origin passes the budget bill as amended, it is messaged to the other house, where the process is repeated.

Resolving conflict. To become law, the budget bill must be passed in identical form by both houses. If the senate and the assembly cannot agree on an identical budget, one house may call for a committee of conference (also referred to as a conference committee).

The conference committee works to resolve the differences between the senate and the assembly on the budget. The conference committee is usually comprised of six or eight members, half from each house, including one member of each house's minority party. Conference committee meetings are public, though informal discussions among some of the members may take place behind closed doors. The committee meets as often as necessary, sometimes over several months.

Because the governor may veto the budget bill, in whole or in part, committee members may contact the governor during the process to build consensus. When the conference committee reaches an agreement, it drafts a conference report and

submits it to each house for consideration.

GOVERNOR'S VETO AND APPROVAL

Once the legislature passes the budget bill, it is prepared for the governor to sign. In Wisconsin, the governor can partially veto any bill containing appropriations. The state budget bill is the most significant appropriations bill passed during any legislative session, and the governor routinely exercises a partial veto on the budget bill before approving it. Wisconsin's governor has the most powerful veto pen in the United States.

BILL BECOMES LAW

After the governor signs the bill, it becomes the executive budget act, is given an act number (for example, 2007 Wisconsin Act 20), and is sent to the Office of the Secretary of State for publication. Most of the executive budget act becomes law on the day after publication, but some parts have different effective dates. At this point in the process, the legislature may override one or more of the governor's partial vetoes, but only with the approval of at least two-thirds of the members of each house.

MODIFICATIONS

Sometimes the budget must be modified during the fiscal biennium. This can be done by (1) enacting separate legislation that increases, removes, changes, or newly awards funding; and (2) introducing a budget adjustment bill to modify the final budget at the governor's request. These modifications are usually limited, and the bulk of the budget remains intact as the state's fiscal policy document until the next budget is enacted.

Governing Wisconsin: "Enacting the State Budget Bill"

Study Questions

1	What is a conference committee and what is its purpose?	
2	Is passing a state budget an executive-branch function or a legislative-branch function?	
3	Under the state constitution, funds may be spent only by authority of a legislative act (based on the idea of "no taxation without representation"). How does the state budget reflect this?	
4	Compare to the state budget process how an average Wisconsin family might determine its household budget.	
5	Make a list of persons who might want to testify before a legislative committee that is considering the state budget bill.	
6	If passing a budget bill is primarily a legislative function, why should the governor be involved from the beginning?	

Governing Wisconsin: "Enacting the State Budget Bill"

Study Questions in the Cognitive Domain

1	What is a conference committee and what is its purpose?	A conference committee, which is composed of members of both houses, recommends a compromise to the legislature when there is a conflict between the assembly and senate versions of a bill.	Cognition
2	Is passing a state budget an executive-branch function or a legislative-branch function?	Passing the state budget is a core legislative function, but the statutes assign the governor an important role in proposing the budget, and the constitution grants the governor a role vetoing, in whole or in part, and enacting the bill.	Comprehension
3	Under the state constitution, funds may be spent only by authority of a legislative act (based on the idea of "no taxation without representation"). How does the state budget reflect this?	The state budget bill contains appropriations that fund state government operations and programs and the transfer of state funds to local governments and school districts. The state budget bill is an appropriations bill that permits state officers to expend funds.	Application
4	Compare to the state budget process how an average Wisconsin family might determine its household budget.	Families determine household budgets by assessing needs, figuring costs, and setting aside money for the most urgent needs. If demand exceeds available money, the heads of household decide whether to cut other spending or find more income. The state budget follows a similar course, though on a vastly larger scale.	Analysis
5	Make a list of persons who might want to testify before a legislative committee that is considering the state budget bill.	The list should include managers of state agencies, university leaders, students, citizens interested in particular proposals in the budget, state employee unions, local government officials, individual legislators, and members of a merchants' association.	Synthesis
6	If passing a budget bill is primarily a legislative function, why should the governor be involved from the beginning?	It is a good idea to involve the governor because: (1) the governor supervises and controls the agencies of government; (2) the governor understands the programs and needs of the agencies; and (3) the governor will have an opportunity to veto and sign the budget bill.	Evaluation

Governing

Wisconsin



Part VII

Mini Unit: Who Should
Pay? Investigating the
Creation of Miller Park



Who Should Pay?

Investigating the Creation of Miller Park

INTRODUCTION

Target audience: high school students enrolled in civics and economics courses.

The purposes of this multi-day lesson are to:

1. Introduce students to the complexity of state decision making. By the end of the activity, students should have an understanding of the following features of state governance: the legislative process, referenda, recall, property tax, sales tax, special purpose districts, and the difference between public money and private money.
2. Guide students through the history and controversy surrounding the creation of Miller Park.
3. Help students to understand this controversial issue from a number of perspectives.
4. Clarify students' own beliefs about the use of public money and the relationship between the state, the economy, and "the common good."

This lesson also addresses the following Wisconsin Academic Standards for Political Science and Citizenship:

C.12.4 Explain the multiple purposes of democratic government; analyze historical and contemporary examples of the tensions between those purposes; and illustrate how governmental powers can be acquired, used, abused, or legitimized.

C.12.7 Describe how past and present American political parties and interest groups have gained or lost influence on political decision making and voting behavior.

C.12.8 Locate, organize, analyze, and use information from various sources to understand an issue of public concern, take a position, and communicate the position.

C.12.9 Identify and evaluate the means through which advocates influence public policy.

C. 12.10 Identify ways people may participate effectively in community affairs and the political process.

C.12.11 Evaluate the ways in which public opinion can be used to influence and shape public policy.

This lesson also addresses the following Wisconsin Academic Standards for Economics:

D.12.6 Use economic concepts to analyze historical and contemporary questions about economic development in the United States and the world.

D.12.9 Explain the operations of common financial instruments—such as stocks and bonds—and financial institutions—such as credit companies, banks, and insurance companies.

D.12.14 Analyze the economic roles of institutions, such as corporations and businesses, banks, labor unions, and the Federal Reserve System.

Preparation: Before undertaking this lesson, teachers should familiarize themselves with the material in the following *Governing Wisconsin* essays:

- ✓ Taxes
- ✓ Special Purpose Districts
- ✓ Referenda and Recall
- ✓ Political Parties
- ✓ Bicameralism
- ✓ Legislative Rules Part II

These essays are available online at: <http://www.legis.wisconsin.gov/lrb/gw/index.htm>.

A note before beginning: This unit of study consists of seven activities that will take several days to complete. The descriptions are not broken up into “Day 1, Day 2, etc.,” so that teachers can adjust their planning to their specific students and school schedules.

ACTIVITY 1: WHO SHOULD PAY?

Opening discussion: A short, warm-up activity to get students thinking about how public money should be spent.

Materials: Paper copies of student handout 1 or an overhead projection of student handout 1.

Teachers may wish to spend time the day before to prepare students for this activity by either lecturing on the material in *Governing Wisconsin*, no. 13, “Referenda and Recall” and no. 22, “Wisconsin Taxes” or asking students to read these papers and their accompanying glossaries for homework. It might also be helpful to have students do the study questions for “Wisconsin Taxes” prior to this discussion.

At the beginning of class, students should be put into five groups. Have students sit with their group members.

Before beginning this discussion, be sure that students understand the difference between public and private money.

Give the class the following hypothetical situation (see student handout 1):

“Imagine it is 20 years in the future and the Green Bay Packers decide that Lambeau Field is no longer an adequate facility and announce they needed a brand new stadium built. They estimate their dream facility will cost \$600 million.”

1. Of the interested parties listed below, divvy up the \$600 million cost by how much you think each group should be willing to contribute to the new field. (Complete this on your own.)

The Green Bay Packers Corporation	\$
The NFL	\$
Taxpayers in Green Bay and neighboring counties	\$
Taxpayers of Wisconsin	\$
Private donors/Packer fans	\$
Corporate taxpayers	\$
Others	\$

For group discussion:

2. As a group, compare your responses for item 1 and discuss where people placed the bulk of the financial responsibility, and their reasoning.
3. Would you be willing to pay 0.5 percent more in sales tax to provide for a new facility? Why or why not?
4. Make a list of reasons why it is in the best interest of Wisconsin (the public good) to help the Packers and a list of why some might object to using public money to subsidize professional sports.

Once groups have had some time to discuss, have each group *briefly* report to the class its opinion and reasoning for item 3. Then create two class lists for item 4.

ACTIVITY 2: BACKGROUND OF THE CONTROVERSY, A SHORT LECTURE AND OPINION POLL

1. The teacher should explain that they are about to consider a similar question that came before the state in the 1990's when the Brewers began asking for a new ballpark.
2. The teacher should explain some of the following history of professional ballparks:

Prior to the Great Depression, professional sports facilities, such as Wrigley Field, Yankee Stadium, and Fenway Park, were all built with private funds, meaning that team owners raised money by recruiting other business investors who received some return on their investments. However, while public money was not used to *build* the parks, there has always been entanglement between politics and professional sports. In the early days, politicians worked to get permits, secure cheap land for the site, rework city roads, and make mass transit accessible to the facility. State and local governments have also offered tax breaks or incentives to help teams stay in the area. (Sidlow and Henchen, 1998)

Milwaukee's County Stadium was unveiled in 1953 and was the United States' first *publicly* funded ballpark built for a specific major league baseball team. Several other teams played in city-owned stadiums, but these were not built for a specific club or sport. In these public-private relationships, the team rents the facility from the city and collects the revenue from tickets, parking receipts, and concessions. Since 1953, there has been a trend of increasing entanglement between professional sports and public funding.

In 1988, Brewers' owner Bud Selig began making plans to build a ballpark in Milwaukee. He originally intended to build the facility entirely with private money, but after several years it

became clear that he would not get enough investors for the project. In 1993, the Brewers estimated that the park would cost \$250 million and they would be willing to contribute \$90 million. A state senator from Milwaukee proposed the creation of a sports lottery to cover the bulk of the remaining costs. On March 15, 1994, the state senate voted 19–14 and the state assembly voted 53–41 in favor of a statewide binding referendum asking voters to amend the state constitution to create a sports lottery to finance the ballpark. In the plan, community sports facilities were to receive some of the funding, but the bulk of the money was to go to the new Brewers ballpark. If passed, Wisconsin would have two lotteries: one whose proceeds would go toward property tax relief and the other a sports lottery.

The teacher should explain that the property tax lottery began in 1988 and was passed by referendum. The lottery was proposed to the citizens of Wisconsin as a program to offer property tax relief. Once winners have been paid and the management costs have been accounted for, the lottery profits are distributed to property taxpayers throughout the state. Below is a chart showing how much relief taxpayers have received from the lottery.

1991	\$144
1992	\$168
1993	\$108
1994	\$112
1995	\$126
1996	\$0
1997	\$80
1998	\$47
1999	\$102
2000	\$167
2001	\$67
2002	\$76
2003	\$83
2004	\$93
2005	\$83

Source: <http://www.dor.state.wi.us/contact/lottery.html>, retrieved July 26, 2007.

Teachers might have students interpret this data.

- ✓ How would you describe the trends of lottery playing over time? (*Began relatively high, dropped significantly in the late 1990s, picked up again in the early 2000s, and now seems to be declining.*)
- ✓ In 1994–1995, the years when the second lottery was being proposed, how much money were homeowners receiving in tax relief? (*\$112/\$126*)
- ✓ Why might homeowners be concerned if a second lottery were introduced? (*They might be concerned that if fewer people play the current lottery then the amount of their returns would be reduced.*)

Take a quick poll in the class with a show of hands: “If you were polled in 1995 the question, ‘Are you in favor of a sports lottery to fund a new Brewers’ stadium?’ how many would say yes?” Record the vote on the board.

Compare the results with an actual poll taken in 1995:

600 Wisconsin residents were polled* to see if they favored a change to the state constitution to create a sports lottery to fund the construction of Miller Park.

64.7 percent said they were in favor of a lottery.

31.5 percent said they were opposed/had no opinion.

*Sponsored by Metropolitan Milwaukee Association of Commerce and the Wisconsin Sports Authority Inc—both agencies in favor of the park. It is unclear if those polled understood the question to mean that a lottery would cover part or all of the funding needed.

ACTIVITY 3: TOWN HALL MEETING

In this activity, the students will consider the arguments for and against the 1995 referendum proposing the creation of a sports lottery to help fund the creation of what became Miller Park. Students will discuss the issue in a modified town hall meeting in which groups of students will represent the views of various interested parties.

Materials needed: student handouts 2–6.

Students should return to or remain in the five groups from Activity 1.

Opening Remarks

1. Explain to the students that each of their five groups will be asked to represent a particular point of view on the lottery and then engage in a town hall discussion on the issue. Give each student a handout (see student handouts 2–6) for the group he or she will be representing and ask the group to read it together. The groups should make sure everyone understands the position and then work together to prepare a one- to two-minute opening speech for the group. Opening remarks should: (1) introduce who they are representing; (2) briefly explain why their group does or does not support the sports lottery by clearly articulating one or two compelling arguments for their side. They should also think about what points someone might challenge them on, and how they would respond to those challenges. Everyone in the groups should be ready to defend their position.
2. Once the groups have had time to read and prepare their remarks, have each group select one person to represent this position and deliver the opening remarks. (Discourage students from reading from the student handouts, and encourage them to speak in their own words.) Have each group representative sit at the front of the class to become the panel of “experts.” Teachers should decide if the rest of the class should be released from their roles to become concerned citizens at a meeting to discuss the upcoming referendum, or if they should continue to represent their assigned roles and ask tough questions of the panelists with whom they disagree. Chairs should be moved so that everyone is now facing the panelists.
3. The teacher or a student facilitator should open the discussion: “Welcome citizens of Wisconsin. Thank you all for coming tonight [month, day, 1995] to participate in our town hall meeting on the upcoming sports lottery referendum. We have gathered a diverse group

of panelists who are here to share their positions with you and engage in a lively discussion of the issue. We will begin by giving each panelist a few minutes to make some opening remarks and then turn the floor over to the audience who may ask questions or politely challenge any of the panelist's comments."

4. Have each panelist give his or her opening remarks in the following order: Owners of the Brewers, Citizens in Favor, Citizens Against, Politicians in Favor, Politicians Against.

Forum

Once the opening remarks have been delivered, the floor is open for discussion. The facilitator should call on members of the audience and maintain order in the meeting. The rest of the class may question or rebut the panelists on the points they made.

Questions that could be inserted into the discussion as needed:

1. Would the members of the panel be in favor of a "sin tax" on alcohol and tobacco to raise money for the Brewers?
2. Would members of the panel be in favor of a 1 percent increase in the sales tax on the counties surrounding the ballpark?
3. What reasons do the panelists have for supporting or opposing using the state to raise money to keep the Brewers?

If needed, teachers may want to wrap up this discussion by having a representative from each group talk through the main arguments for each position.

During the last five minutes of class, have students re-vote on the referendum using a paper ballot on which they write a short paragraph explaining their decision. Record the votes and share at the beginning of the next class session.

ACTIVITY 4: QUICK WRITE AND VOTE: INTERPRETING THE REFERENDUM RESULTS

Materials needed: student handout 7.

1. Review some of the new terms from the last few days with the class ("referendum," "property tax," "sin tax," "sales tax," "public money," "private money," "property tax lottery," etc). The class should also understand the function of the state legislature and bicameralism.
2. Begin the class with the results of the class vote on the lottery referendum, then hand out or project the results of the actual state referendum (student handout 7), showing that it lost by a 2:1 margin overall. Have students respond to the quick writing exercise on the handout and then discuss their thoughts as a class.

Some things to note: These four options were all actually considered as possible funding sources. Teachers should help students to think through the economic and political consequences of each of these choices. For example, the gas and sin taxes have the added benefit of deterring negative behavior: people would be discouraged from driving/polluting and drinking/smoking. But the gas tax also puts a fairly high economic burden on the local community, and constituents would probably resent this option. By contrast, the hotel tax is often a politically desirable tax because it taxes people outside of the legislator's district (burden falls on tourists and business travelers).

3. Once the class has shared their ideas and understands the consequences of each of these options, ask the students to imagine that they are legislators from Milwaukee and the five counties—how does this fact change their thinking?—in the surrounding area, and that today you will vote on each of these four “bills” (the four funding options). Take a voice vote (see *Governing Wisconsin*, no. 20, “Legislative Rules: Part Two”) on each of the bills. If the vote is too close to call, take a roll call vote.

ACTIVITY 5: RADIO BROADCAST: CREATION OF THE BALLPARK DISTRICT

1. Explain to the class that following the defeat of the lottery referendum, Governor Tommy Thompson promised to find a way to fund the park and helped draft a bill to create the Southeastern Wisconsin Professional Ballpark District. The bill passed through the assembly and then went to the senate on October 5, 1995.
2. Select an animated student to stand up and read this “radio news report” as if it were the morning of October 6, 1995.

Read:

“After sixteen hours of late-night debate, the Wisconsin Senate approved a plan to keep the Milwaukee Brewers in Wisconsin. The final vote, cast at 5:00 a.m. this morning, passed by a narrow 16–15.

“Two earlier late-night votes, one before midnight and another just after, defeated the bill, and it looked like the Brewers would be sent packing. But, Governor Tommy Thompson came to the Brewer’s aid by calling a series of closed door meetings in what became a “bizarre night of wrangling.” (Lorman)

“When the senators finally came back for a third vote at 3:00 a.m. they found Senator Joseph Wineke missing. After an unsuccessful search by staffers, the majority leader called the police to take over the search. Wineke arrived to the floor at 4:45 a.m. apologizing for having dozed off. The final vote was passed fifteen minutes later.

“The bill creates a special purpose district for the future ballpark comprised of the five districts of Milwaukee, Waukesha, Ozaukee, Washington, and Racine. The \$160 million construction costs will be raised with bonds and paid back with the revenue created by a one-tenth of 1 percent sale tax on the five counties. The Brewers will contribute \$90 million toward the construction.

“Senator Petak of Racine voted twice against the bill, upholding his campaign promise of no new taxes for the park. In the end, he switched camps and cast the swing vote in favor of the park and the sale tax increase.”

Using the information in *Governing Wisconsin*, no 12, “Special Purpose Districts,” teachers should explain the purpose and duties of the Southern Wisconsin Professional Ballpark District.

ACTIVITY 6: EPILOGUE/WRAP-UP

The following are three follow-up stories on the park for further discussion.

The 1999 Audit/How Bonds Work

The original financing plan was to share the cost of a \$250 million park with \$160 million coming primarily from the 0.1 percent sales tax increase in the Ballpark District and \$90 million coming from the Brewers. In 1999 an audit (required by law) was done to assess the project. The audit found that the actual cost for the park would come closer to \$400 million, making the taxpayer cost more than \$300 million. There is no expiration date on the 0.1 percent sales tax, but the auditors projected it would have to be collected until “at least” 2014.

The over-cost was caused by a number of factors, including underestimating the actual cost of the project, construction delays, accidents involving the retractable roof, and the accumulation of interest on the loan. This is an interesting case to explain how government bonds work (see glossary for “Special Purpose Districts”).

It is important for students to understand how interest on borrowing increases the cost of an item or project. For a simplified and compelling illustration, explain that if someone takes out a 30-year loan of \$100,000 for a home at 7.5 percent interest, he or she will pay roughly \$700/month as a mortgage payment.

$\$700 \times 12 \text{ months} \times 30 \text{ years} = \$252,000$. This is the amount that is actually paid on the home.

The borrower ends paying \$152,000 in interest! If, however, the borrower takes out a 15-year loan, the monthly payment would be \$927/month.

$\$927 \times 12 \times 15 = \$166,860$, which means the borrower saves \$85,140 in interest by paying more each month.

Be sure to explain that people can deduct some of the interest that they pay from their taxes, so the federal government actually returns some of that money to the homeowner. The point, however, is that the faster you pay back loans, the more you save.

A similar thing happens when governments take out debt. They are obligated to make the interest payments every year, but if they do not pay on the principal, or pay very little, the debt continues to increase and taxpayers end up paying much more than the original amount borrowed. This, of course, also happens when people make only minimum payments on their credit cards.

How Do We Compare? A Look at Other Ballpark Funding

The chart below shows the spending distribution for other ballparks built in the last 20 years.

Year	Park	Total Cost	Public Money	Private Money
1994	Cleveland Gateway Complex (for the Indians and the NBA Cavaliers)	\$462 million	\$305 million	\$157 million
1995	Coors Field (Colorado Rockies)	\$215 million	\$168 million	\$47 million
1998	Chase Field (Arizona Diamondbacks)	\$349 million	\$238 million	\$111 million
2000	AT&T Park (SF Giants)	\$357 million	0	\$357 million*
2001	Miller Park (Brewers)	\$400 million	\$310 million	\$90 million

Source: <http://www.ballparks.com/baseball/national/>, retrieved July 25, 2007.

*Breakdown of private financing: \$170 million loan from Chase Manhattan Bank, \$70 million from the sale of charter seat licenses, \$102 million from the sale of naming rights, sponsorships, and other sources, and \$15 million in tax increment financing by the city's redevelopment agency. The ballpark is the first privately funded ballpark built for Major League Baseball since Dodger Stadium opened in 1962. Source: <http://www.ballparks.com/baseball/national/pacbel.htm>, retrieved July 25, 2007.

Discussion: How does this data change or support your views of the park?

The Recall—the Senator Petak Story

Prior to the creation of the Ballpark District the Republicans controlled the senate by one vote (17–16). Republican Senator George Petak of Racine ran for office promising not to raise taxes for the ballpark, but then changed his vote on the morning of October 6, 1995, and Racine was included in the five-county district. In response, Racine citizens began a campaign to recall Senator Petak. (See *Governing Wisconsin*, no. 13, “Referenda and Recall.”) After collecting nearly 15,000 signatures, the anti-Petak campaign filed for a recall election. Petak lost the election to Democrat candidate Kim Plache. The introduction of Plache into the senate flipped party distribution to 17 Democrats and 16 Republicans, consequently giving Democrats the control of senate leadership. (See *Governing Wisconsin*, no. 2, “The Role of Political Parties.”)

Possible discussion topics:

1. Was the Petak case an appropriate use of recall? Why or why not?
2. Teachers might also note that in 1999 the citizens of Brown County (Packer territory) voted by referendum to raise their sales taxes by 0.5 percent to pay for the Lambeau Field renovations. Does the fact that the majority voted to raise their taxes make a better justification for using public money for professional sports? Why or why not?

ACTIVITY 7: ASSESSMENT, LETTER TO THE EDITOR

Materials needed: student handout 8.

Writing prompt: To what extent should public money be used to subsidize professional sports?

At the beginning of this investigation you were asked to react to a situation in which the Packers wanted funding for a new football stadium. Using the Brewer Ballpark and the surrounding controversy as an example, write a letter to the editor of your local newspaper to explain how you think the \$600 million Packer stadium should be funded. You might argue for 100 percent private money or for one of the other funding schemes discussed during this investigation.

Question: “Does the fact that the Packers are a publicly* owned team change the situation?”

* The word “publicly” in this sense does not mean the Packers are owned by the state, but rather the team is owned by a group of interested supporters (roughly 110,000 people) who pay to own a share of the team, which is run by an elected board of directors. We use “public” in this way when we talk of a publicly traded stock or company.

Part of the purpose of this piece of writing is to check for your understanding of several concepts. To that end, please include six of the following ten terms in your letter. Be sure to use each term in a way that demonstrates your understanding of the concept.

1. Referendum
2. Legislature or legislator
3. Property tax
4. Sales tax
5. Sin tax
6. Bonds (as a way of generating revenue)
7. Public money
8. Private money
9. Recall
10. Special purpose district
11. Bonus points for using “the substitution effect”

Note to teachers: You might want to give the entire class a copy of the “Citizens in Favor” handout as a sample letter. You might also want to discuss the letter’s use of “appeals to emotion” as a rhetorical tool/questionable method of argument.

For more information see *Wisconsin Briefs* 00-4 “Renovation of Lambeau Field” available at: <http://www.legis.state.wi.us/lrb/pubs/Lb/00Lb4.pdf>.

By: Paula McAvoy
Bonnie Reese Intern, 2007
Legislative Reference Bureau

Who Should Pay?

Imagine it is 20 years in the future and the Green Bay Packers decide that Lambeau Field is no longer an adequate facility and announce they need a brand new stadium built. They estimate their dream facility will cost \$600 million.

1. Of the interested parties listed below, divide up the \$600 million cost by how much you think each group should be willing to contribute to the new field (complete this on your own).

The Green Bay Packers Corporation	\$
The NFL	\$
Taxpayers in Green Bay and neighboring counties	\$
Taxpayers of Wisconsin	\$
Private donors/Packer fans	\$
Corporate taxpayers	\$
Others	\$

For group discussion:

2. As a group, compare your responses for item 1 and discuss where people placed the bulk of the financial responsibility, and their reasoning.
3. Would you be willing to pay 0.5 percent more in sales tax to provide for a new facility? Why or why not?
4. Make a list of reasons why it is in the best interest of Wisconsin (the public good) to help the Packers and a list of why some might object to using public money to help professional sports.

Politicians in Favor

You are a collection of state legislators who are in a difficult position. On one hand, you have promised your constituents (who are mostly in the southeastern part of the state) that you will not increase taxes to pay for a new ballpark; on the other hand, if the Brewers leave you will be known as the person who “let the Brewers go” and that will not look good when you run for reelection.

The lottery seems to be the ideal solution. Lottery players voluntarily “pay to play” so no one is forced to support professional sports. Some say that a second lottery will pull money away from the current lottery, consequently reducing property tax relief. However, history shows that Wisconsin is a gaming friendly state—in the last fifteen years it has approved Indian casinos and a state lottery for property tax relief. Results from two polls show that voters are in favor of a sports lottery. In addition, Maryland recently instituted a second lottery to pay for the construction of Camden Yards for the Orioles and found that lottery players did not just transfer their funds to the other game, but that overall lottery playing went up. In fact, in 1994 the Maryland sports lottery netted \$13.5 million for the ballpark. If the same is true in Wisconsin, then we could pay off the park in ten years.

There are many people who argue that public money should not go to help private business, but this is not the reality of our system. The truth is that government sees protecting jobs as an important social good. The government subsidizes farmers, creates jobs for the state by offering tax breaks to corporations that open offices in the state, and protects jobs by offering loans and grants to help struggling companies stay afloat. The Brewers have been a source of jobs for the Milwaukee area since 1970; while some argue that helping them is only helping “rich ballplayers,” the fact is that they employ many hundreds of people at all levels of income: accountants, doctors, lawyers, sales clerks, and concessions workers.

Another important goal for state and local government is to promote community and civic pride. To this end, public money is used to build parks and cultural centers, to fund community summer festivals, and to provide fireworks on July 4. The Brewers are a *state* team that gives fans a sense of shared pride and camaraderie that are part of the public good.

Finally, people often overlook the fact that the proposed lottery will provide funding for sport facilities across the state. Everyone will benefit from funds that allow communities to improve their local fields, ice rinks, and swimming pools. The sports lottery is a win for the entire state.

Politicians Against

You are members of the state legislature and are opposed to using state money to build a stadium for the Brewers. Most of you represent citizens in the northern part of the state and do not see how your areas benefit from a team in Milwaukee. In addition, you are well aware that the lottery alone cannot pay for this new park and are concerned that passing the lottery will commit the state to paying for the rest of the project, which can happen only through some form of taxation. You believe that public funding for professional sports is a misuse of taxpayers' money and you would much rather see public money go to public works, such as schools, roads, and public safety. How many schools could use some portion of \$200 million for new facilities, teachers, or supplies? Why, you wonder, should the public give subsidies to a business that makes millions of dollars?

It is true that a lottery scheme seems to be a win-win situation in which fans can choose to support their team by contributing to the lottery and possibly win millions. But the reality is that the majority of lottery players are generally in lower-income brackets, and the people who benefit from the ballpark are usually middle- to upper-income earners. In short, the lottery builds a park on the backs of the people who can least afford it.

People in favor of creating a new ballpark often claim that sports facilities bring significant economic growth to the state and local areas. Your advisors tell you this is shaky accounting. Most of these economic studies use the "Keynesian multiplier," an economic measure which assumes that all of the earnings associated with the park (players' salaries, concessions, etc.) go right into the local economy, when in reality players and owners (the largest earners) generally don't live near the stadium community, and therefore spend elsewhere. Using the Keynesian multiplier also overestimates the effect of tourism on the economy. For most facilities, 5 to 10 percent of people who attend games are people who travel from outside of the area from a distance that would require a hotel room. In calculating the effect of this "tourist" population, the multiplier takes the price of one ticket and then assumes the typical tourist spends \$1,000 on a vacation and claims a \$1,000 increase to the economy. In reality, people do not usually build a full vacation on a trip to the ballgame. Finally, these studies ignore the "substitution effect." The substitution effect shows that people have limited dollars to spend on leisure activities, so if they are drawn to a ballpark, it means they have taken their money away from, for example, the movie theater. If you ignore the substitution effect, it can look like people are spending more money, when in reality they are just spending it differently. (Keating)

Keeping the Brewers is not only *not* likely to help the economy, but also passing the lottery will commit the state and its taxpayers to a very expensive and unnecessary project that benefits few people outside of Milwaukee.

The Brewers Management

You are members of the Milwaukee Brewer's owners, a group of investors led by Bud Selig, who was instrumental in bringing professional baseball back to Wisconsin. In the 1960s Bud Selig was a minority owner in the Milwaukee Braves and fought against the team's move to Atlanta in 1965. When the Braves left, Selig made it his goal to bring another team to Milwaukee. After first failing to get approval for an expansion team, he set out to buy an existing team. After years of work, Selig made a deal to buy the bankrupt Seattle Pilots just six days before opening day in 1970.

Bud Selig clearly loves professional baseball, but the bottom line is that the Brewers are also a business, and businesses must be profitable. Ticket sales have been down for several years, and despite being in a pennant race, the Brewers had some of the lowest attendance in the major leagues. Research shows that teams that move to a new park increase their value by 79 percent on average. More ticket sales will increase the team's ability to compete with other baseball franchises for the best players by paying competitive salaries, which, in turn, will draw more people to the games. However, a new park is costly and you want the city to pay much of the cost so that you may direct your dollars toward creating the best possible team. A new stadium will also provide luxury box seating, which you can sell to corporate investors for much more than general admission.

Clearly you must keep your business afloat, but you also want to stay in Milwaukee. This is your team's home and while it is a business, you also provide a social good in the form of family entertainment. Baseball is a community event. It brings pride for the state and helps form its identity. As James Ericson said, "[major league baseball] is a vital part of the glue that binds our state together, that makes Wisconsin more than just a place on a map. It helps make us a community of shared interests, or common values." (*Milwaukee Journal*, March 23, 1995)

Some people balk (no pun intended) at the idea of using public funds to keep a baseball team in the area, but the reality is there has not been a privately funded ballpark built in the United States since Dodger Stadium opened in 1962. Other states understand that successful baseball is good entertainment and good for the economy. A state-of-the-art stadium will attract tourism and help local businesses—especially restaurants and hotels—when people come in for a game. In fact, accounting firm Arthur Andersen, using the standard measure of economic growth, the "Keynesian multiplier," estimated that a new ballpark for the Minnesota Twins would generate an additional \$369 million in revenue just during the four-year construction period. (Keating)

Your main concern is that the state provides you the funding that you need. It is clear a lottery alone would not fund the new facility, but by instituting the lottery the state would demonstrate its commitment to keeping the Brewers and would allow you to move ahead with planning. You will definitely need to persuade the citizens that the lottery is in their best interest.

Citizens in Favor

You are a group of citizens in favor of keeping the Brewers and in favor of the sports lottery. The letter below articulates your beliefs and values:

“You may remember how it felt when the Braves left town. I do. I had just moved to Wisconsin, in February 1965. Two months later, I was at County Stadium for my first opening day, the last the Braves would ever play here. It was a bittersweet moment, if there ever was one.

“Later that year, when the Braves packed their bags and headed to Atlanta, I saw firsthand the pain around me not just to sports fans, not just to the economy, but to everybody. It was a bad time for the entire state.

“The Braves were Wisconsin’s pride, World Series champs, victors over the Yankees. They were the stuff of legends Hank Aaron and Eddie Mathews and Del Crandall. Lew Burdette, Bob Buhl and the great Warren Spahn. And we had lost them...

“In the years between the Braves and Brewers, I had occasion to see, close up, the enormous effort and expense it took to bring big-league baseball back to Wisconsin. There’s one conclusion from that experience I feel absolutely sure about: It’s a whole lot easier, and cheaper, to retain a major league club than to attract a new one. This time, we won’t get another chance.

“That brings me to the April 4 sports lottery referendum. I believe Wisconsin deserves and needs a ‘yes’ vote on the referendum for three main reasons:

“First, our economy needs it. The financial impact of sports on the Wisconsin economy is huge, more than \$1.2 billion last year, \$219 million of that from the Brewers alone. Over the next 20 years, it is estimated that major league baseball will add \$7.6 billion to the state’s economy...Second, our spirit needs it. Sports play an important role in our society. Sports give special meaning to people and places. Sports give us an identity, a presence in the nation and in the world. Sports are the stuff of conversations, a bond among strangers...Third, future generations need it. I grew up in a small town in northwestern Iowa, population 2,000. My childhood hero was Phil Cavarretta, first baseman for the Chicago Cubs. All summer, the most important part of my day was to check the box score to see how he fared in yesterday’s game. I pressed my ear against the radio to hear his exploits, play by play. I learned values of courage, of persistence, of not being defeated by defeat. Today’s children are hungry for their own version of that experience. They need the benefit from learning those same values.

“To me, it’s very simple: no sports lottery, no stadium. No stadium, no Brewers. Let’s give sports a chance and vote in favor of the sports lottery on April 4.”

From an opinion piece published in the *Milwaukee Journal* (March 23, 1995) by James D. Ericson, business executive in Menomonee Falls and member of the Milwaukee Stadium Commission.

Citizens Opposed

You are a group of Wisconsin property owners opposed to the sports lottery and opposed to using taxpayer dollars to keep the Brewers in Milwaukee. For the most part, you live in the northern two-thirds of the state, and while you can see how Milwaukee might benefit from having a team, you do not see how professional baseball benefits you. If anyone must pay for the park, it should be the people who live in the surrounding area.

Many of you are opposed to government programs that promote gambling. You voted against the property tax lottery and against allowing casinos on reservation land. In your view, it is not the business of government to encourage people to be fiscally irresponsible. The reality is that 16 percent of lottery players create 75 percent of the money generated by the lottery. According to data collected by the state Gaming Commission, these regular players spend an average of \$1,200 per year on games, and we know these are also the people who can least afford to lose that kind of money. No one would think it appropriate for the government to raise money by producing pornography, and it is not okay for the government to promote gambling. If anything, the government should promote good behavior by taxing alcohol and tobacco and using that money for projects we really need.

Others of you are concerned that a second lottery will draw players away from the existing lottery, consequently reducing your property tax relief. Wisconsin Gaming Commission surveys have shown that lottery players spend roughly the same amount of money every year and the number of players stays fairly consistent over time. We must believe then that a second lottery would only decrease spending on the property tax lottery. As it is, the current lottery gives the average home owner only about \$100 of relief each year—much less than what was originally promised. This so called win-win solution that allows people to “voluntarily” support the Brewers will *actually* be a tax on property owners. And don’t forget: if you take dollars from the middle class, we’ll have less to spend on Brewer tickets and baseball hats.

Finally, we are skeptical that the government should be trying to take on a project of this magnitude. We know that governments are far more inefficient when it comes to managing budgets and meeting project deadlines than the private sector. Businesses know how to get things done without a lot of waste. If the Brewers want a world-class ballpark on time and done right, they would be much better off finding their own financing.

Lottery Referendum Results

Some regional statistics:

County	Yes	No
Outagamie	5,891	20,094
Dane	26,688	64,489
Brown	10,678	38,601
Marathon	6,159	20,774
Pepin	155	797
Milwaukee	81,244	58,214
Waukesha	39,422	27,953
State Totals	348,818	618,377

Source: *State of Wisconsin Blue Book 1995–1996*, p. 885.

Overall outcome: Referendum failed 2:1.

Issues that affected the outcome:

- 25 percent voter turnout was higher than expected.
- Residents outside of Milwaukee saw the ballpark as a local, not state, issue and didn't want their property tax relief affected.
- There was a national baseball strike during the months leading up to the vote in which million-dollar ballplayers were negotiating for more money. In general, the public was unsympathetic to their cause and perhaps unwilling to support public efforts to help professional sports.
- The property tax lottery had not been as lucrative as it was promised to be, and people were skeptical of lottery initiatives.

Quick write exercise:

In the *Milwaukee Journal* the next day, April 6, 1995:

Headline: "Many factors lead to lottery's landslide loss."

"Are Wisconsin voters merely against using the lottery to fund a stadium? Are they against any statewide funding source? Are they against the very idea of a publicly subsidized ballpark for a privately owned baseball team? And what signal have voters in Milwaukee sent? Does the 'yes' vote here simply mean that voters in this community are willing to tap lottery profits to help build a ballpark? Or does it also mean they're willing to raise their taxes as well?"

- What do you think about the questions posed above? Given the class discussion and the lottery results, should the state continue to seek public funding for the ballpark, or, if it comes to it, let the Brewer's go? Why or why not?
- Would you be in favor of any of the following options? (1) A three cents/gallon gas tax on fuel sold in the seven counties surrounding in the park? (2) A two cent "sin tax" on alcohol and tobacco products sold throughout the state? (3) A 2 percent hotel tax on all hotel rooms within the five counties surrounding the park? (4) Increasing the sales tax in the five counties surrounding the park by 0.1 percent? Explain.

Letter to the Editor

Writing prompt: To what extent should public money be used to subsidize professional sports?

At the beginning of this investigation you were asked to react to a situation in which the Packers wanted funding for a new football stadium. Using the Brewer Ballpark and the surrounding controversy as an example, write a letter to the editor of your local newspaper to explain how you think the \$600 million Packer stadium should be funded. You might argue for 100 percent private money or for one of the other funding schemes discussed during this investigation. Question: “Does the fact that the Packers are a publicly* owned team change the situation?”

The word “publicly” in this sense does not mean the Packers are owned by the state, but rather the team is owned by a group of interested supporters (roughly 110,000 people) who pay to own a share of the team, which is run by an elected board of directors. We use “public” in this way when we talk of a publicly traded stock or company.

Part of the purpose of this piece of writing is to check for your understanding of several concepts. To that end, please include six of the following ten terms in your letter. Be sure to use each term in a way that demonstrates your understanding of the concept.

1. Referendum
2. Legislature or legislator
3. Property tax
4. Sales tax
5. Sin tax
6. Bonds (as a way of generating revenue)
7. Public money
8. Private money
9. Recall
10. Special purpose district
11. Bonus points for using “the substitution effect”

STUDENT HANDOUT 8

For follow-up discussion:

Year	Park	Total Cost	Public Money	Private Money
1994	Cleveland Gateway Complex (for the Indians and the NBA Cavaliers)	\$462 million	\$305 million	\$157 million
1995	Coors Field (Colorado Rockies)	\$215 million	\$168 million	\$47 million
1998	Chase Field (Arizona Diamondbacks)	\$349 million	\$238 million	\$111 million
2000	AT&T Park (SF Giants)	\$357 million	0	\$357 million*
2001	Miller Park (Brewers)	\$400 million	\$310 million	\$90 million

Source: <http://www.ballparks.com/baseball/national/>, retrieved July 25, 2007.

*Breakdown of private financing: \$170 million loan from Chase Manhattan Bank, \$70 million from the sale of charter seat licenses, \$102 million from the sale of naming rights, sponsorships, and other sources, and \$15 million in tax increment financing by the city's redevelopment agency. The ballpark is the first privately funded ballpark built for Major League Baseball since Dodger Stadium opened in 1962. Source: <http://www.ballparks.com/baseball/national/pacbel.htm>, retrieved July 25, 2007.

Bibliography

- Chicago Sun-Times, Inc.*, "Senate Rally in 9th Keeps New Brewer Stadium Alive," October 6, 1995.
- Ericson, James. "Supporting States Sports Lottery Means Fostering Future Dreams," *Milwaukee Journal*, March 23, 1995.
- Keating, Raymond. "Sports Pork: The Costly Relationship between Major League Sports and Government." *Policy Analysis*, no. 339 (1999): 1–33.
- Lamke, Kenneth. "Audit Renews Debate about Miller Park Costs, Funding," *Milwaukee Journal Sentinel*, June 19, 1999.
- Leean, Joseph. "Sports Lottery Referendum," *Milwaukee Journal Sentinel*, April 2, 1995.
- Mayers, Jeff. "Wisconsin's Recall Fever." *Wisconsin Interest*, (Winter 2004): 1–5.
- "Miller Park Timeline." It's Miller Time main page, accessed August 2, 2007, http://www.nbs-inc.net/A3_brutimeline.html.
- Milwaukee Baseball Field: County Stadium, Miller Park, 1 July 1992–29 March 1995, Clippings Book at Wisconsin Legislative Reference Bureau: 352.596 M64z, pt 2.
- Milwaukee Journal*, March 10–April 6, 1995.
- Milwaukee Sentinel*, February 6–24, 1995.
- Munsey, Paul. *Ballparks by Munsey & Suppes*, "National League Ballparks," accessed July 25, 2007, <http://www.ballparks.com/baseball/national/>.
- Petak Story, March 1–October 6, 1996, Clippings Book at Wisconsin Legislative Reference Bureau: 352.596 M64z, pt 6.
- Sidlow, Edward I. and Beth Henschen. "Major League Baseball and Public Policy, or, Take Me out to the Ballgame, Wherever the Game May Be." *Policy Studies Review*, 15:1 (spring 1998): 65–88.
- Untied Press International*, "Brewers Stadium Passes Wisconsin Senate," October 6, 1995.
- Wisconsin Department of Revenue, Division of Lottery, accessed July 26, 2007, <http://www.dor.state.wi.us/contact/lottery.html>.

Glossary



Glossary of Technical Terms

Found in the *Governing Wisconsin* Series

Administrative rules	The rules that implement a particular law. In Wisconsin, the legislative branch allows the executive branch to make these rules which have the force of law. The legislature retains the power to monitor and suspend the rules.	No. 21
Allotment policy	Also known as the Dawes Act, a federal policy from 1887 to 1934 that allowed the government to divide Indian reservation land into private parcels, or “allotments,” for individual American Indian families and to sell off “surplus” land to non-Indians. As a result, tribes lost much of their land.	No. 11
Amend; amendment	To make a change by adding, deleting, or substituting language in a law, bill, or official document.	Nos. 5, 13, 20
Appropriation	An act of the legislature authorizing money to be spent from the state funds for a particular use.	No. 5
Articles of Confederation	The first governing document of the United States, written in 1771. The Articles gave more power to the states than to the federal government. It was replaced by the U.S. Constitution in 1789.	No. 9
Assembly	One of the two houses of the Wisconsin Legislature. The state assembly is made up of 99 representatives, each representing one-third of the population of a Wisconsin senate district.	Nos. 5, 19, 20, 21
Assembly speaker	The person who oversees the operation of the assembly and assigns bills to committees. The assembly speaker is a member of the political party that has the majority of seats in the assembly.	Nos. 2, 20
Assessment	The amount of property tax one is obligated to pay. “Assessment” also refers to the value of property that is subject to the property tax.	No. 22

Attorney general	The top law enforcement official in the executive branch. In Wisconsin, the attorney general is an elected position. At the federal level, the president appoints the attorney general, who sits as a member of the president’s cabinet.	Nos. 7, 16
Audit	An examination of financial records to check for accuracy and a review of whether expenditures are authorized by law. One of the legislature’s checks is to audit the other branches to see if they are spending money appropriately.	No. 7
Authority	Under the public records law, an “authority” can be a state or local office, a public official, a public agency, a governing body and the committees associated with it, a court of law, and certain public or nonprofit corporations. The authority is the legal custodian of its public records.	No. 17
Barnburner	In the mid-nineteenth century, a progressive member of the Democratic party who was particularly interested in protecting consumers’ interests and in extending economic, social, and voting rights to women and to African Americans.	No. 23
Bicameralism	A political arrangement in which the legislative branch is divided into two separate houses, each with distinct leadership, membership, and terms of office.	No. 1
Biennial	Occurring every two years. A biennial budget authorizes expenditures for a two-year period. A fiscal biennium is the two-year period beginning on July 1 of an odd-numbered year and ending on June 30 of the even-numbered year.	Nos. 5, 25
Bill	A proposed piece of legislation; a draft of a law that may be considered by the legislature.	Nos. 1, 3, 5, 8
Bill of Rights	Ratified in 1791, this is the first ten amendments to the U.S. Constitution. The Bill of Rights limits the power of the federal government by protecting the freedoms of speech, press, and religion, the right to keep and bear arms, the freedom of assembly, and the freedom to petition and by prohibiting unreasonable search and seizure, cruel and unusual punishment, and compelled self-incrimination.	Nos. 14, 18

Board of supervisors	A group of elected officials who act as the legislative body of a county.	No. 6
Bond	A certificate of agreement through which federal, state, and local agencies borrow money to fund particular projects, and a way for individuals and other entities to invest their money. The agency sells bonds to investors and promises to return the money with interest at an established date in the future. Bonds and the interest are usually paid back over time through taxes or project revenue.	No. 12
Brief	A written legal argument that lays out the facts of a case and advocates for a particular legal interpretation. Lawyers write briefs when they appeal to appellate and supreme courts or when they submit a petition or motion to a trial court.	No. 4
Budget (state)	A plan outlining the expected revenue and itemized expenditures for the state for a given year. The governor presents the budget for the legislature's approval. The budget bill, when enacted, authorizes the expenditure of state funds.	Nos. 7, 25
Caucus	When all legislators from the same political party in a house meet to review a bill and formulate a response. Also, a local meeting for members of a political party usually to select a candidate to put on the ballot or to determine the party platform.	Nos. 2, 16, 25
Census	An official count of the population. The U.S. Constitution requires census data to be collected every ten years.	No. 3
Census Bureau	Part of the United States Department of Commerce, the Census Bureau is the governmental agency in charge of conducting the national census.	No. 3
Chief justice	The judge who presides over a supreme court. At the federal level, the president appoints and the U.S. Senate approves the chief justice. In Wisconsin, the chief justice is the justice with the most seniority on the court.	No. 4

Circuit courts	County-level courts that try criminal and civil cases. These are often jury trials in which a judge oversees the proceedings and the jury issues the verdict.	Nos. 4, 10
Civil case	A dispute between two parties in which one party seeks an award of damages or injunction for some wrong. Civil suits can also be between individuals and an organization such as a corporation, nonprofit group, school district, or governmental agency.	Nos. 4, 10, 11
Commerce clause	The clause in the U.S. Constitution that gives the federal government the exclusive power to regulate commerce (economic transactions) among the states. It prohibits states from regulating commerce.	No. 9
Committee, legislative	A subgroup within a legislative house that specializes in particular subject areas. For example, there are senate committees on agriculture and education. When bills are introduced, they are first assigned to a committee, which holds public hearings and debates the merit of the bill. If the bill passes (reports) out of committee, it goes to a vote before the entire house.	Nos. 1, 8, 20
Committee of Conference	A committee that reconciles differences between versions of the same bill passed in the senate and in the assembly. Either house of the legislature may appoint the committee of conference, which consists of three members from each house. At least one member from each house must be a member of the minority party.	No. 25
Congress of Confederation	The governing body of the United States established by the Articles of Confederation (1781–1789). It consisted of representatives from each state.	No. 14
Congress, United States	Literally means “a gathering of people.” Refers to the legislative branch of the U.S. government, consisting of the House of Representatives and the United States Senate. Congress meets in the U.S. Capitol in Washington DC.	Nos. 3, 11, 14

Conservative	A political orientation that describes a person who wants to preserve traditional religious, cultural, or national values. Modern conservatives also tend to advocate for minimal government involvement in the economy and for reducing taxes, and oppose federally funded social programs. Today, the Republican Party is considered the more conservative of the two major parties, although the Constitution Party is more conservative than the Republicans.	No. 2
Constituents	The people who reside within the district served by a particular elected official. For example, the residents of Wisconsin are all constituents of the governor.	No. 8
Constitution, United States	The document, written in 1787 and ratified in 1789, that established the structure and principles of the United States government. The Constitution replaced the Articles of Confederation and created a stronger federal government comprised of three branches: legislative, executive, and judicial. The Constitution limits federal power by granting certain powers to the states and by recognizing the individual rights outlined in the Bill of Rights.	Nos. 11, 18
Convention	A national meeting of delegates from one political party to declare officially the party's candidate for the presidential race. The convention is also used to establish the party's platform for the next four years.	No. 2
Coroner	An elected county official whose job it is to investigate the cause of a suspicious death. In Wisconsin, some counties appoint a medical examiner rather than elect a coroner.	Nos. 6, 10
Coroner's jury	A jury of six people who decide if a death occurred naturally or as a result of suicide or homicide.	No. 10
County clerk	An elected county official whose job it is to administer elections and collect county records, such as marriage licenses and birth certificates.	No. 6

Court of appeals; appellate court	An intermediate “error correcting” court. Challenges to decisions made in circuit courts are made to the court of appeals. The court of appeals reviews the case and votes to uphold or overturn the lower court’s decision. The decision of the court of appeals may be challenged in the state supreme court.	No. 4
Criminal case	A case in which the government accuses a person of committing a crime. Criminal trials are used to resolve criminal cases.	No. 4
Deduction	Money that a person or corporation is allowed to subtract from income as exempt from taxation. For example, a parent may deduct a certain amount of money from her taxable income for each child she supports.	No. 22
Defendant	The person accused of a crime in a criminal case; the party being sued in a civil case.	No. 10
Delegate	A person chosen to act for or represent another person. The Democrat and the Whig parties sent delegates to act in their interests at the constitutional conventions.	No. 23
Department of Natural Resources	The state agency within the executive branch responsible for implementing laws regarding the preservation, management, and maintenance of Wisconsin’s air, land, and water resources.	No. 12
Department of Revenue	The state agency within the executive branch charged with collecting state taxes and administering state tax law.	Nos. 21, 22
Direct democracy	A form of democratic decision making in which all citizens or members vote on all of the issues before the group. An example of this is when residents of a town gather once a year to vote on town business. This is in contrast to representative democracy in which officials are elected to represent the interests of their constituents when making decisions.	No. 6
District attorney	An elected county official who prosecutes people accused of crimes; the attorney who represents the interests of the state in a criminal case.	Nos. 6, 10, 16

District, congressional	Territory within a state that is represented by a single member of the House of Representatives. The entire United States is divided into 435 congressional districts, based on population, eight of which are in Wisconsin.	No. 3
Due process	A legal principle found in the Fifth and Fourteenth amendments to the U.S. Constitution that requires the government to respect all of a person's rights. Under due process, the government must obey the law, act in a reasonable manner, and use fair procedures when it acts to limit a person's life, liberty, or property.	No. 18
Electoral College	The body of 538 electors that officially elects the president and the vice president of the United States. Citizens vote for a slate of electors who are pledged to vote for a particular candidate. Electors are allocated according to state population. Each state receives a number of electors equal to the number of the state's U.S. representatives plus two.	No. 24
Electorate	The voting public, which includes all qualified voters.	Nos. 1, 11, 16
Enrolled bill	The official copy of a bill that has passed both houses in the same form. "Enroll" means to consolidate the bill's text and any corrections and amendments into one text prepared for the governor's signature.	No. 25
Equal protection clause	A clause in the Fourteenth Amendment to the U.S. Constitution that prohibits the government from passing laws that discriminate against particular individuals or groups.	No. 18
Ethics Board (Government Accountability Board)	The state agency that administers the lobbying law. In 2007, the Government Accountability Board assumed the duties of the Ethics Board. Lobbyists and lobbying principals must register with the Government Accountability Board and report their activities and expenditures.	No. 8
Executive branch; executive	The branch of government that executes, administers, and enforces the laws and oversees the military (national guard). The president is the head of the federal executive branch; the governor is the head of the state executive branch.	Nos. 1, 5, 6, 7, 8, 11, 12, 13, 21

Executive session	A meeting of a legislative committee to conduct business, usually to vote on bills referred to the committee. When it acts in executive session, a committee is said to “exec” on a proposal. In Wisconsin, “executive session” means a meeting at which the committee will vote and take action. In other states, “executive session” means a session that is closed to the public.	Nos. 1, 25
Exemptions	That portion of an individual’s or corporation’s income that is exempt from taxation. The “personal exemption” allows every person to earn a certain amount of money that will not be subject to state taxes.	No. 22
Federal government	The national government, consisting of three branches: legislative (United States Congress), executive: (the president of the United States and federal agencies), and judicial (the United States Supreme Court and federal district courts).	Nos. 1, 3, 4, 5, 6, 9, 11, 14, 17, 22
Federalism	An institutional arrangement in which political authority is divided among different levels of government, each with distinct or overlapping powers.	No. 9
Federalist Papers	A collection of 85 essays written by Alexander Hamilton, James Madison, and John Jay, framers of the U.S. Constitution, advocating for the ratification of the Constitution. The essays were written in 1787 and 1788 and are considered the authoritative explanation of the design and intended operation of the federal government. These papers are often used as guides for constitutional interpretation.	No. 9. [GW no. 27 references “Federalist No. 78.”]
Fifth Amendment	The amendment to the U.S. Constitution that guarantees citizens “due process” under the law. No citizen may “be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.” See Bill of Rights.	No. 18

First Amendment	The amendment to the U.S. Constitution that reads, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” See Bill of Rights.	No. 8
Fourteenth Amendment	One of the three post–Civil War amendments. It established the due process and equal protection clauses and extended the reach of the Bill of Rights, which had previously applied only to the federal government, to state and local governments.	Nos. 9, 18
Fugitive Slave Law	A federal law passed by Congress in 1850 as part of a compromise between slave states and free states. The law required law enforcement authorities in free states to capture and return escaped slaves to their owners in slave states.	No. 27
General fund	The money available to the state for funding projects and programs. The general fund consists of income taxes, state sales taxes, public utilities taxes, inheritance taxes and other miscellaneous taxes.	No. 5
Gerrymandering	A biased method of redistricting in which district boundaries are manipulated to favor a particular candidate or political party.	No. 3
Grand jury	A jury that decides whether the state has enough evidence to charge someone with a crime (indict). In Wisconsin, 12 of the 17 jurors must vote to indict for the case to go to trial.	No. 10
Great Society	A collection of social programs initiated by President Lyndon Johnson (1963–1969). The goal of the Great Society was to eliminate poverty and racial discrimination.	No. 9
Gross income	An individual’s or corporation’s before-tax earnings. The total money an individual or corporation earns in a year.	No. 22

Gubernatorial	Refers to the governor or the governor’s office. For example, a person running for governor is referred to as “the gubernatorial candidate.”	No. 2
Habeas corpus	Literal translation: “you have the body.” The writ of habeas corpus requires the government or anyone detaining a person to prove possession of enough evidence to warrant holding the person. It is one of the most important rights for protecting individuals from arbitrary state action.	No. 14
Hearings, legislative	Meetings by legislative committees used to gather facts and opinions about a particular piece of legislation. Hearings might include testimony from experts, persons affected by the policy, and other interested parties.	Nos. 8, 21
Home rule authority	A clause within the Wisconsin Constitution that allows cities and villages to make local decisions, so long as they do not violate existing state laws.	No. 6
Homestead exemption	A rule that protects the value of a citizen’s home from creditors in the case of bankruptcy or other financial hardship. Under the rule proposed in the first constitutional convention, a person’s creditors would be prevented from seizing the last \$1,000 of value the person held in his home.	No. 23
House of origin	The legislative house in which a bill is introduced.	No. 25
Hunker	In the mid-nineteenth century, a conservative member of the Democratic party who was generally opposed to extending economic, social, and voting rights to women or to African Americans and who was fiscally conservative. The Hunkers sided with the Whigs on many issues during the constitutional conventions.	No. 23
Impeach	To charge a public official with a crime. If the assembly votes to impeach a public official, the senate presides over his or her trial. If the official is found guilty, he or she is removed from office.	No. 7

Income tax	A tax charged against the income earned by an individual or corporation. In the United States, individuals and corporations generally pay a percentage of their earnings to their state and federal governments.	No. 22
Incumbent	The person who currently holds a political office. If the incumbent runs for a subsequent term of office, it is common to hear the candidates referred to as “the incumbent” and “the challenger.”	Nos. 2, 13
Indian Civil Rights Act of 1968	The law that prohibits tribal governments from enacting laws that violate certain individual rights granted to all American citizens.	No. 11
Indian Reorganization Act of 1934	Also known as the Wheeler-Howard Act, the law reversed the allotment policy, ended the movement toward private land ownership, and returned reservation lands to rule by tribal governments. The act also recognized certain rights of American Indians and set up a plan to assist tribes in reacquiring land lost under the allotment policy.	No. 11
Jefferson’s Manual	The common name for the Manual of Parliamentary Practice written by Thomas Jefferson in 1801. This guide to the rules for legislative proceedings is still used by the Wisconsin Legislature.	No. 19
Joint Committee for Review of Administrative Rules	A legislative committee, with representatives from both houses, which has the authority to suspend administrative rules.	No. 21
Joint rules	Legislative rules that prescribe the way in which the legislature does business. Joint rules are adopted by and apply to both houses of the legislature. (In addition to the joint rules, there are rules of each house.) See legislative rules.	No. 20
Journal	A record of the legislature's official acts on each day.	No. 26
Judicial branch; judiciary	The branch of government that interprets law and controls the court system. The United States Supreme Court is the final court of appeal in the federal system; the Wisconsin Supreme Court is the highest state court.	Nos. 7, 13

Judicial system	The system of courts within a state or country.	Nos. 4, 21
Jurisdiction	The territory over which an official has authority, as in, “the sheriff’s jurisdiction ends at the county line.” The supreme court has “appellate jurisdiction,” meaning it has the authority to review, and potentially overturn, the decision of any lower court.	Nos. 4, 10, 12, 16
Jurisprudence	The philosophy of law, legal reasoning.	No. 9
Jury	A collection of citizens gathered to weigh the evidence presented in a criminal or civil trial. Following the trial, the jury deliberates and makes a decision about the question before the court.	No. 10
La Follette, Robert “Fighting Bob”	Leader in the Progressive Movement, former senator, congressman, and governor of Wisconsin. La Follette (1855–1925) was born in Dane County, Wisconsin, graduated from UW–Madison, and spent his life fighting political and economic corruption. As governor, La Follette strengthened the relationship between the university and the state, making the Wisconsin Idea a guiding principle for public policy.	No. 15
Legislation	Laws passed by the legislature, statutes.	Nos. 5, 15, 21
Legislative branch; legislature	The branch of government that makes laws and controls government spending. In Wisconsin, the legislature is divided into two houses: the assembly and the senate. Members are elected directly by the people.	Nos. 1, 3, 5, 6, 7, 10, 11, 12, 13, 15, 16, 19, 20, 21
Legislative committee	A subgroup within a legislative house that specializes in particular subjects. When a bill is proposed it is first assigned to a committee, which holds public hearings and debates the merit of the bill. If the bill passes (reports) out of committee, it goes to a vote before the entire house.	Nos. 1, 8, 20
Legislative rules	The agreed rules that give order to the discussion and debates within a legislative body; the procedures that must be followed during deliberation. See joint rules.	Nos. 16, 19, 20
Legislator	An elected member of the legislature, a lawmaker.	No. 15

Leopold, Aldo	Known as the “father of wildlife management,” Leopold (1887–1948) earned degrees at Yale’s School of Forestry and became a professor of Game Management and Agricultural Economics at UW–Madison. He founded the Wilderness Society and was influential in establishing Gila National Forest in New Mexico as the nation’s first protected wilderness area.	No. 15
Liberal	A political orientation that usually describes a person who believes that government ought to regulate the economy for fairness, protect civil liberties, and provide social services to the least advantaged. Liberals are often called progressives. Today, the Democratic Party is considered the more liberal of the two major parties; however, the Wisconsin Green Party is more liberal than the Democrats.	Nos. 2, 7
Liberal democracy	A type of democracy that guarantees citizens certain individual rights. This is different from its more common usage to describe a person’s political orientation.	No. 7
Libertarian	Both a national political party and a political philosophy. Libertarians hold firmly to the value of individual freedom and argue for the most liberal conception of individual rights and civil liberties and the conservative desire for the smallest possible government.	No. 2
Lobby; lobbying	To attempt to persuade an elected official to vote in one’s best interest or the interest of the group one represents. The process of lobbying includes attending public hearings, tracking bills through the legislature, educating the public, organizing letter writing and call-in campaigns, press conferences, and communications with individual legislators.	No. 8
Lobbying principal	A person who or organization that pays someone to lobby on his, her, or its behalf. Lobbying principals must register with the Government Accountability Board, the successor to the Ethics Board.	No. 8

Magna Carta	Latin for “Great Charter.” This was an agreement made in 1215 between King John of England and the nobles in which the king promised to recognize certain rights of the people and limit his own power. This is an important document in the history of American democracy because it established many of the principles later included in the U.S. Constitution and the Bill of Rights.	No. 18
McCarthy, Charles	The founder of the Legislative Reference Library and author of the book, <i>The Wisconsin Idea</i> . McCarthy (1873–1921) earned his PhD at UW–Madison and spent his career helping to draft much of the legislation that came about through the Wisconsin Idea and the Progressive Era.	No. 15
Metropolitan	Describes a city and its surrounding suburbs (a metropolis).	No. 12
Misdemeanor case	A case in which the government accuses a person of a “lesser” criminal act. Misdemeanors are generally punished less severely than felonies, such as with monetary fines.	No. 10
Monarchy	A form of government in which all political power rests in the hands of a single ruler. A monarch usually inherits his or her position through a royal family line and rules until death.	No. 7
Muir, John	One of America’s most influential environmentalists, founder of the Sierra Club, and advocate for the creation of Yosemite National Park in California. Muir (1838–1914) was a Scotsman who, in 1849, emigrated to Portage, Wisconsin, and later attended UW–Madison before dropping out to enroll in the “university of the wilderness.”	No. 15
Municipal courts	Lower level trial courts that handle cases involving local city ordinances, such as traffic, curfew, and noise violations.	No. 4
Municipality; municipal	A city, village, or town; a unit of local government.	Nos. 3, 6, 10, 13

Naturalization	The process through which immigrants to the United States gain U.S. citizenship. To become naturalized, an immigrant must meet certain requirements specified in federal law.	No. 24
New Deal	A collection of programs initiated by President Franklin D. Roosevelt from 1933 to 1938. The goal of the New Deal was to provide economic relief during the Great Depression. It greatly expanded the powers of the federal government.	No. 9
New Federalism	A political and legal movement beginning in the late 20th century to transfer certain powers from the federal government back to the states.	No. 9
Nonpartisan	Not biased toward a particular political party, operating independently from a party.	Nos. 3, 13
Northwest Ordinances	Three acts of the Congress of the Confederation (1781–1789) that established the procedures for the settlement, governance, and path to statehood of the Northwest Territory and led to the creation of Wisconsin.	Nos. 14, 22, 23
Northwest Territory	Lands west of Pennsylvania, east of the Mississippi River, north of the Ohio River, and south of the Great Lakes. Became the states of Ohio, Illinois, Indiana, Michigan, and Wisconsin.	No. 14
Open Meetings Law	Requires all governmental bodies to open their meetings to the public, and to notify the public in advance about when and where meetings will be held. The law does not give citizens the right to participate in the meetings.	No. 16
Opinion	A written decision made by a supreme court or court of appeals. The opinion reflects the views of the majority of the court. Also known as the “majority opinion” when there is a dissenting opinion.	No. 4
Opinion, concurring	The written opinion of a justice who agrees with the court’s decision, but has a slightly different legal interpretation that he or she wants to record for the legal record.	No. 4

Opinion, dissenting	The written opinion of a justice who voted with the minority on a particular case. The dissenting opinion outlines why the justice disagrees with the court’s opinion.	No. 4
Ordinance	A local law, usually made by a municipality.	Nos. 4, 13
Parliament	The name of the legislative body in a parliamentary system of government. In this system, the parliament appoints the head of state (prime minister) who is answerable to that body. This is different from the U.S. system in which the head of state (president) is elected by the Electoral College following a popular vote, and which gives each branch separate duties with certain checks against the other.	Nos. 18, 19
Parliamentary law	Also known as “parliamentary procedure,” a set of rules that guide discussion and deliberation within a meeting or legislative session.	No. 19
Partisan	Favoring a particular political party. A “partisan atmosphere” describes a political climate dominated by party interests.	Nos. 1, 3, 13, 25
Petit jury	A jury of 12 citizens who decide if a person is guilty or innocent in a criminal case or if a person is liable for damages in a civil case. See grand jury.	No. 10
Platform	A written statement that outlines the principles and objectives of a particular political party for the upcoming year or term.	No. 2
Point of order	A request for a clarification of a legislative rule. It is at least an implied objection to a motion or ruling contrary to rules.	No. 20
Political participation	Collectively, activities through which citizens seek to influence public policy. These can take the form of voting in elections, writing elected officials, attending town hall meetings, etc. In the United States, certain forms of political participation are constitutionally protected, while others are limited.	No. 24

Political party	A private, voluntary organization of people with similar political beliefs that competes with other parties for control of the government.	Nos. 1, 2, 3
Precedent	A rule or ruling from the past that is used to guide current practices. Legislative rules are based on precedent. That is, the proceedings of today are based on the rules and policies used in the past.	No. 19
Presiding officer	The person elected or appointed to facilitate and keep order in a meeting or legislative session. This is the person who enforces the legislative rules.	Nos. 19, 20
Primary election	A preliminary election in which voters select candidates for a later election.	No. 13
Progressive movement; progressives	A movement for social reform that began in the late 1800s and ended in the 1930s. Progressives opposed political and economic corruption and sought to eliminate inequality and injustice through causes such as workers' rights, women's suffrage, and election reform.	Nos. 2, 15
Property tax	An annual tax charged by local governments (e.g., cities and school districts) against the value of a property. A property owner is obligated to pay a percentage of the value of his or her property.	Nos. 6, 22
Proposal	An issue before a legislative house that needs action. A proposal can be a bill, amendment, or resolution.	No. 20
Pro tempore	Translates to "for the time being." The president pro tempore and speaker pro tempore are elected by their legislative houses to take over leadership duties when the senate president and assembly speaker, respectively, cannot attend.	Nos. 2, 20
Public corporation	An organization or business owned and partially funded by the government. The U.S. Postal Service and the Corporation for Public Broadcasting are examples of public corporations.	No. 12
Public Records Law	Allows citizens access to state and local government records.	No. 17

Quorum	The minimum number of members of a committee or legislative body needed to be present in order to conduct official business.	No. 20
Ratification	A vote of the people to approve a proposed act, or a vote of the states to approve a proposed constitutional amendment.	Nos. 13, 26
Recall election	To call back. A vote, initiated by the people, to decide whether an elected official will be removed from office.	No. 13
Record	Under the public records law, “record” means “any material on which written, drawn, printed, visual, or electronic material is recorded or preserved, regardless of physical form or characteristics, which as been created or is being kept by an authority.”	No. 17
Recording officer	The person responsible for keeping the minutes and records of a meeting.	Nos. 19, 20
Redistricting	The process of changing the boundaries of political districts to reflect changes in the population. The process maintains the principle of equal representation in the legislative houses.	No. 3
Referendum	A measure that is passed by a legislative body, then referred to the public for a final vote. Highly controversial topics are sometimes settled by agreeing to submit the measure to referendum, giving voters a direct say in the outcome.	No. 23
Referendum, advisory	A vote in which citizens express their opinion on an issue. No policies change as a result of an advisory referendum.	No. 13
Referendum, binding	A vote in which residents accept or reject a particular proposal. For example, the residents of Brown County voted by referendum to increase their sales tax by 0.5 percent to pay for Lambeau Field renovations.	No. 13

Repeal	To cancel or revoke an official act. For example, the Eighteenth Amendment, which prohibited the sale and manufacture of intoxicating liquor, was repealed by the Twenty-first Amendment.	Nos. 12, 13
Reservation	Land managed, with limited sovereignty, by an American Indian tribe in agreement with the federal government. Reservation land may be trust land or privately owned by the tribe or by individuals within the tribe.	No. 11
Resolution	Proposal to create, amend, or repeal a legislative rule, or a formal statement of opinion or intention passed by a legislative body or organization.	Nos. 13, 29, 20
Revenue	The money a government collects by imposing taxes and fees.	No. 22
Roll call vote	A recorded vote in which the chief clerk calls each member by name to speak his or her vote. Each member's vote is recorded for the record.	Nos. 16, 20
Sales tax	A percentage charged against the purchase price of certain goods and services. As of 2008, the sales tax in Wisconsin is 5 percent, so if you buy a \$10 item, you will pay \$10.50 at the register. To pay its debt, the Baseball Park District was allowed to raise the sales tax 0.1 percent within its five-county jurisdiction. Consequently, the people of Milwaukee, Ozaukee, Racine, Waukesha, and Washington counties pay 5.1 percent in sales tax. Sixty counties have authorized an additional 0.5 percent, making the effective rate either 5.5 or 5.6 percent.	Nos. 12, 22
Secretary of State	In Wisconsin, the elected officer of the executive branch who maintains the official acts (records) of the legislature and governor. At the federal level, the president appoints the secretary of state to the cabinet; the secretary of state is responsible for foreign policy.	Nos. 7, 8
Senate	One of the two houses of the Wisconsin Legislature. The state senate is made up of one senator from each of the 33 Wisconsin senate districts.	Nos. 1, 5, 19, 20, 21

Senate president	The person who oversees the operation of the senate and assigns bills to committees. The senate president is usually a member of the political party that has the majority of seats in the senate.	Nos. 2, 20
Seventh Amendment	The amendment to the U.S. Constitution that states that every person has a right to a jury trial in a civil matter where the value in controversy exceeds \$20. See Bill of Rights.	No. 10
Sheriff	The chief law enforcement officer for a county. The sheriff's duties vary by county, but usually include managing county jails and making criminal arrests. Sheriffs are elected to four-year terms.	No. 6
Sixth Amendment	The amendment to the U.S. Constitution that outlines the rights of the accused, including the rights to a "speedy trial by and impartial jury of the State," to know the crime with which one is being charged, and to confront witnesses. See Bill of Rights.	No. 10
Sovereignty	The power of self-rule, independence.	No. 11
Special interests	Interest or lobby groups that try to convince government officials to support particular policies. Special interests are understood to be acting apart from the public interest. See lobby; lobbying.	No. 15
Special Purpose District (SPD)	A local unit of government created for one particular or special purpose. Examples of SPDs are school districts, sewerage districts, and the Madison Cultural Arts District.	No. 12
Statutes	The codified general laws of the state. The Wisconsin statutes are continually revised.	Nos. 4, 11, 16, 17, 21
Substitute amendment	A substitute bill or resolution that, if adopted, takes the place of the original proposal. A substitute amendment makes substantial changes in a bill or resolution, or is drafted for procedural reasons.	No. 25

Suffrage	The right to vote. Suffrage for women and for African Americans was a point of contention at the constitutional conventions.	No. 23
Summary disposition	A unanimous decision made by the court of appeals in which the court agrees that a well-established law settles the case.	No. 4
Superintendent of public instruction	In Wisconsin, the constitutional officer, elected by the people, who is in charge of the Department of Public Instruction, which oversees public schools.	No. 7
Supreme Court	The final court of appeals. The Supreme Court is the highest court of the federal court system and consists of nine justices who are appointed for life. Each state also has a state supreme court, which is the highest court in the state system. The Wisconsin Supreme Court is made up of seven justices who are elected to serve ten-year terms.	Nos. 4, 5, 21
Table	To set aside proposed legislation to be discussed at a later date. In the budget process, especially, tabled amendments are unlikely to be taken up again.	No. 25
Tax	Money collected by a governmental authority from citizens and corporations to fund public programs and finance its operational costs.	No. 22
Taxable income	The portion of a taxpayer's income that is subject to taxation. The taxable income is determined by subtracting any exemptions and deductions from a person's total earnings.	No. 22
Tenth Amendment	Amendment to the U.S. Constitution that reads, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." See Bill of Rights.	Nos. 6, 9
Treasurer, county	An elected county official who keeps records of all the money received and spent by the county and administers property tax assessments.	No. 6

Treaty	A formal agreement between two or more nations, usually to establish peace or to form an alliance.	No. 11
Trust land	Land the title to which is held by the United States and is designated for use by an American Indian tribe or American Indian. The land is exempt from state and local property tax. Most trust land is located on Indian reservations, but a tribe also may apply to have land outside the boundaries of its reservation placed in trust.	No. 11
Unicameral	A political arrangement in which the legislative branch is made up of one house. Nebraska is the only unicameral state in the United States.	No. 1
Use tax	A sales tax on goods and services purchased by a state resident outside of the state and for which the out-of-state retailer has not collected a sales tax. For example, if you purchase an item online and are not charged sales tax by that retailer, by law, you should pay a use tax to the state of Wisconsin.	Nos. 12, 22
Van Hise, Charles	Founder of the Wisconsin Idea, Van Hise (1857–1918) was born in Fulton, Wisconsin, and earned a BA and PhD from UW–Madison. He went on to become the president of the university and worked to establish the university as an extension of the state government.	No. 15
Veto, partial	A power granted to the governor that allows the governor to strike individual words in an appropriations bill and to reduce the amount of funding allocated in the bill. The legislature can override a partial veto with a two-thirds vote in each house.	Nos. 5, 25
Veto, whole	A power granted to the governor to reject a bill that has been passed by the legislature. A veto prevents the bill from becoming a law unless the legislature overrides the veto with a two-thirds vote in each house.	Nos. 5, 25
Voice vote	A vote that begins with the presiding officer saying, “All in favor, say ‘aye’.” The officer uses his or her discretion to determine if there were more ayes or noes and whether the proposal passed. A member may call for a roll call vote.	No. 20

Voting Rights Act	A law passed by the federal government in 1965 that reformed the voting process by outlawing literacy tests, poll taxes, and other forms of voting discrimination targeted at minority groups.	No. 3
Wards	A division within a municipality similar to a voting precinct. When a citizen votes, he or she goes to the polling place within his or her ward.	No. 3
Wisconsin Idea	A philosophy regarding the type of relationship between the university and the state government, captured in the adage, “the boundaries of the university are the boundaries of the state.”	No. 15
Witte, Edwin	Known as the “father of social security.” Witte (1887–1960) was born in Watertown, Wisconsin, earned his BA and PhD at UW–Madison, and went on to join its faculty in the Department of Economics. Witte was also a public servant who was head of Wisconsin’s Legislative Reference Library, and, in 1934, served on President Franklin Roosevelt’s Committee on Economic Security, where he developed the plan for Social Security.	No. 15

