

# The Wisconsin Legislative Reference Bureau

## A Century of Service

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*Plaque in Assembly Chamber honoring Charles McCarthy.*

## Preface

In 2001, the Wisconsin Legislative Reference Bureau (LRB) completed 100 years of service to the Wisconsin Legislature and the citizens of Wisconsin. Created in 1901, the LRB was the first agency of its kind in the nation to provide professional, nonpartisan drafting and research services to a state legislature. Over the years, it has served as the model for similar offices in other states, as well as the Congressional Research Service of the Library of Congress. During its first century of service to the legislature, the LRB has supported the legislative institution by providing research, drafting, and library services and providing the general public with information about the legislature, the legislative process, and government in general.

The legislature commemorated the LRB's 100th anniversary at a reception held in the Senate Parlor on October 3, 2001.

## I. THE FIRST ONE HUNDRED YEARS

The Legislative Reference Bureau traces its origins to 1901, when the legislature enacted a law directing the Free Library Commission to establish a “working library” in the State Capitol. Chapter 168, Laws of 1901, provided that

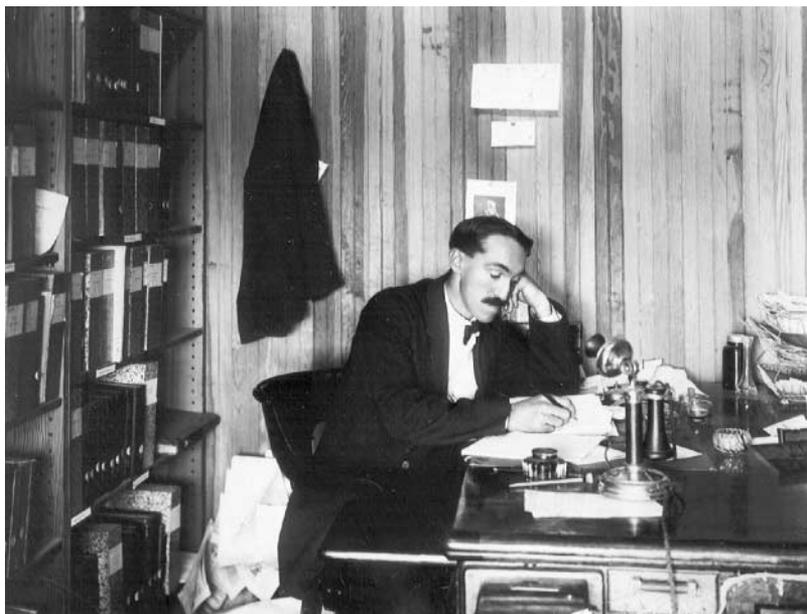
the commission is . . . authorized and directed to maintain in the state capitol, for the use and information of the several state departments, and such other citizens as may desire to consult same, a working library, as complete as may be, of the several public documents of this and other states; and to purchase for said library standard works of use and references.

### **McCarthy of Wisconsin**

The Free Library Commission hired Charles McCarthy, a Massachusetts native who had recently earned his doctorate in history from the University of Wisconsin, to oversee the establishment of the new library, which became known as the Legislative Reference Library (LRL). McCarthy began work on October 1, 1901, as a document clerk earning \$83.33 per month with the primary responsibility of gathering publications for use by members of the legislature.

There are several theories to explain the initial impetus for creating the library. One persistent, but probably apocryphal, story suggests that the idea came from McCarthy himself. According to the story, McCarthy, then a Ph.D. candidate at the University, stumbled across a legislator at the State Historical Society, who apparently was having limited success in finding background information about a bill before the legislature. After assisting the researcher, the story goes, McCarthy was inspired to suggest the establishment of a permanent office specifically for the purpose of helping legislators find needed information. The bureau was probably created because the State Historical Society, formerly located in the state capitol, had moved to its new building one mile away on the university campus in 1901. It appears that Frank Hutchins, the secretary of the Free Library Commission at the time, may have been the originator of the idea.

Although it is probably not true that McCarthy himself conceived



*LRL Chief Charles McCarthy at his desk in the Legislative Reference Library. (State Historical Society, #WHi (X3) 44686)*

the idea of the LRL, he almost single-handedly transformed his job of collecting and maintaining state documents into a vital agency central to the legislative process. New York had established a legislative reference library in 1890, but it differed only slightly from the prevailing reference library model. McCarthy expanded the concept of service to the legislature by collecting and making available many kinds of informational materials and providing drafting and research assistance to legislators. Much of the impetus for this expanded role sprang from the mind of McCarthy, who in 1901 observed a legislature that seemed to him inefficient and hopelessly old-fashioned. In his 1912 book, *The Wisconsin Idea*, he describes the scene:

Eleven years ago there were about seventy women employed to engross the bills of the legislature in long hand; there was scarcely a typewriter used. Scraps of paper were often passed up as bills to the speaker's desk. The place was full of useless

employees, many of whom never did a stroke of work. It was absolutely impossible to tell how many bills amending a section were before the legislature. There were no checks for accuracy. The halls were crowded with lobbyists. It was easy for a country member to find an attorney to draft a bill for him for a small fee, especially if the bill was aimed at some corporation which could later be approached by the attorney. There was no organized method of placing information on any particular bill before the legislator, nor was there any impartial or skilled assistance in the drafting of bills for the honest legislator who knew nothing of law.

### **Growing Role of the LRL**

McCarthy immediately moved to expand his position as a document clerk into a resource for supporting the work of legislators and offering suggestions on ways to improve the efficiency of the institution. Always, McCarthy was one step ahead of the legislature in providing new services. His tiny document room in the south wing of the old capitol became a clearinghouse of ideas and information, as legislators gathered there to discuss and modify pending legislation or seek news on the latest developments in other states. The legislature formalized this arrangement by the enactment of Chapter 238, Laws of 1903, requiring the Free Library Commission to maintain a legislative reference room in the capitol. McCarthy also began employing attorneys during the legislative session so members could get unbiased, professional legal assistance in drafting bills. Chapter 508, Laws of 1907, formally recognized this function of the LRL. The same law formally assigned the LRL the task of indexing bills and session laws, a need that McCarthy had recognized for some time. Very early in his tenure, McCarthy had seen the need to give legislators information about the actions of legislative bodies in other states and foreign countries that were grappling with the same issues as Wisconsin. To facilitate this, he began compiling information through surveys and indexing newspaper clippings by subject. "We want to know what the dearly bought experience of other places is," he wrote in 1909. Chapter 772, Laws of 1913, formalized the role that the LRL was playing in keeping the Wisconsin Legislature in touch with events around the United States and the world.



*Charles McCarthy and his staff, 1906. (State Historical Society, #WHi (X3) 49904)*

The LRL was housed in several locations in its early years. Initially it occupied rooms in the south wing of the old capitol. The fledgling agency suffered a major setback in February 1904, when the library was destroyed in the capitol fire. It was temporarily located in the renovated north wing of the old capitol during construction of the new capitol. When the north wing of the old capitol was razed in 1913, the LRL was relocated to the fourth floor of the new capitol's south wing, in an open space that later became a hearing room. Finally, when the present capitol was finished in 1917, the LRL moved to the second floor of the north wing, which would be its home until 1989.

### **The LRL as a National Model**

The LRL was a pioneer in legislative service when it began in 1901; by the time it had found permanent quarters in 1917, almost every state in the union had created some sort of legislative service agency. Many used Wisconsin's LRL as a model. When the U.S. Congress was deciding whether to create a similar service at the federal level, McCarthy traveled to Washington to urge Congress to do



*Temporary quarters for the LRL in the south wing of the capitol, 1914. (LRB Collection)*

so. The agency later known as the Congressional Research Service was subsequently created.

McCarthy's prominence, coupled with his close association with progressive thinkers on the University of Wisconsin campus and in the legislature, made him and his LRL a target of legislators who disagreed politically. McCarthy insisted that his services were completely nonpartisan, but conservatives considered the LRL a progressive "bill factory" and moved to eliminate it in 1915. Even the conservatives, however, could not deny the benefits of professional legislative service. Not only did their efforts to abolish the LRL fail, they came to embrace the library as a valuable and efficient neutral ground in the legislative wars.

### **After McCarthy**

The Legislative Reference Library continued to thrive after McCarthy's untimely death in March 1921. The bureau by that time had evolved into a full-service information and bill drafting

office. Many practices initiated under McCarthy continued under his successor, economist Edwin Witte. The library continued to acquire, catalog, and index materials of interest to legislators. The reference section continued to conduct state-by-state surveys and compile reports about topics likely to be dealt with by the legislature. One significant difference between that time and the present day was that because the legislative session lasted at most nine months out of every 24, drafting attorneys were hired on a part-time basis.

During Witte's tenure as chief of the LRL, another significant responsibility was added to the agency's duties. Chapter 194, Laws of 1929, gave the LRL the task of compiling and editing the *Wisconsin Blue Book*, the comprehensive almanac of Wisconsin state government that had previously been produced by the State Board of Printing. Beginning with the *1931 Wisconsin Blue Book* and continuing with each subsequent edition to the present day, the agency's reference section has been responsible for producing the *Blue Book*.

By the 1930s, the LRL had settled into the regular rhythm of the legislature's two-year cycle. During the legislative session, the



*Bill drafting room of the Legislative Reference Library, circa 1937. (LRB Collection)*

agency expanded into the space of its governing body, the Free



*Reference room of the Legislative Reference Library, circa 1937. (LRB Collection)*

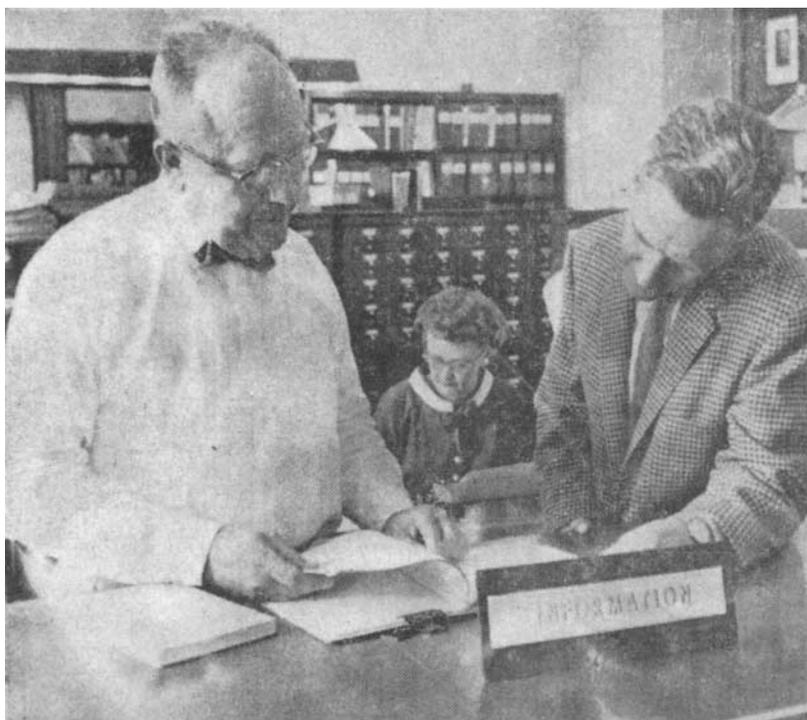
Library Commission, to allow bill drafters to confer with legislators. LRL researchers and librarians worked almost exclusively on providing information about public policy to members, who at that time had no staff or offices of their own. During the legislative session, LRL office hours expanded to include evening and Saturday hours. After final adjournment of the legislature, the drafters returned to other jobs (in most cases, presumably, private law practices) and the full-time staff returned to long-term projects, the compilation of the *Wisconsin Blue Book*, or the backlog of routine work that usually accumulated during session. In 1933, Witte resigned as LRL chief to take a faculty position at the University of Wisconsin. He was succeeded by Howard F. Ohm, an attorney who had worked for the state Workmen's Compensation Board and served as counsel to a number of interim legislative study committees.

It was probably inevitable that as the years passed, the LRL would become more than a research library and bill drafting service. As

one of the few manifestations of the legislature during long interim periods, the LRL became the institutional memory of the body. Each year the library filled with more bills, books, reports, drafting records, and newspaper clippings that told the story of sessions past. Increasingly during the 1930s and 1940s, the LRL became a mecca for legislators, scholars, attorneys, and judges who were trying to determine the intent or reasoning behind existing law.

### **A Period of Change**

Howard Ohm died in 1949. The following year, Marinus G. Toepel, who had an extensive background in education, was named chief of the LRL. In addition to the agency's traditional duties, Toepel emphasized the public education role of the LRL. Previously, LRL research publications were distributed only to interested legis-



*Chief Marinus G. Toepel confers with Coordinator of Reference and Research H. Rupert Theobald in 1961. Theobald would later serve as LRB Chief. (LRB Collection)*

lators. Toepel printed additional copies of the bureau's publications and made them available to members of the public who also wished to learn about public policy. He also began publishing LRL research as a regular series of publications for general distribution, a practice that continues to this day.

For the first 47 years of its existence, the LRL stood alone as the only legislative service agency in Wisconsin. In 1947, the Legislative Council was created to serve as an umbrella joint committee of the legislature to coordinate interim study activities between regular sessions of the legislature. This pattern of legislative staffing led some to suggest that the LRL should be moved from the jurisdiction of the Free Library Commission, an executive branch agency, and placed under a joint legislative committee. The idea of placing the LRL under legislative control became a reality with the passage of Chapter 149, Laws of 1963, which created a permanent Joint Committee on Legislative Organization (JCLO) and placed the renamed Legislative Reference Bureau (LRB) under its jurisdiction. In July 1963, just six days after the act was published and three weeks before it was to take effect, Toepel died suddenly. In January 1964, H. Rupert Theobald, Toepel's coordinator of reference and research, was named chief of the LRB following a national search.

This change took place as the legislature began to spend more time in session, dealing with increasingly complex issues. Thus, beginning in the early 1960s, some LRB drafting attorneys were hired on a full-time, rather than a sessional, basis. By the 1970s, all attorneys were full-time employees. During the 1960s, two other service agencies joined the LRB under the JCLO umbrella. The Department of State Audit became the Legislative Audit Bureau, and the Legislative Fiscal Bureau was established to oversee a revamped budget process. Legislators also added staff members who became an increasing part of the LRB's clientele from the 1960s to the 1980s.

## **Technology and the Modern Legislature**

The period from the 1960s to the 1980s was also one of technological revolution. In the tradition of Charles McCarthy's devotion to scientific methods of legislative service, Dr. Theobald led the LRB into the forefront of innovative technology to bring added efficiency to the legislative process. In 1967, the Wisconsin Statutes were converted into an electronic format to facilitate computerized bill drafting. That same year, in order to make it easier for legislators and the general public to understand proposed legislation, the LRB began publishing a plain language analysis as part of each bill drafted. By the 1970s, a mainframe computer system was used for bill drafting and LRB publications. The improved efficiency of automation helped alleviate the increased workload that came with longer legislative sessions.

A new computer system, implemented in 1994, permits all bills and LRB publications to be entirely prepared in camera-ready format within the bureau. The new system helped lessen some of the difficulties associated with the agency's physical separation from the legislature. In recent years, the LRB has maintained the legislature's Web site, and has used Internet technology to give its publications wider and easier distribution.

### **Recent Years**

In 1989, the LRB left its home of over 70 years in the north wing of the capitol as part of the capitol renovation project. The agency occupied space at 100 North Hamilton Street across the street from the capitol. In 1994, Theobald retired after a record 30-year tenure as chief of the LRB. Stephen R. Miller was named his successor in 1998.

In 2002, the LRB will move to its sixth location, the second floor of 1 East Main Street. It will bring to its new location the same commitment to supporting the legislative institution that it has demonstrated since its establishment a century ago.

Throughout its 100-year history, the LRB has remained focused on its mission of legislative service and upholding the principles of confidentiality and nonpartisanship on which it was founded. The history of the legislative institution itself has become intertwined with that of the LRB. For most of Wisconsin's history, the people's

legislation, great and small, has come through the agency that began as McCarthy's workshop of ideas: from the progressive reforms of the early 20th century, through the environmental legislation and reorganization of state government in the 1960s and 1970s, to the issues challenging Wisconsin today.

### **Current Staff**

The LRB staff, headed by the bureau chief, includes 58 full-time permanent positions. The agency functions through:

- the Research and Information Section, staffed by legislative analysts;
- the Theobald Legislative Library, staffed by librarians; and
- the Legal Services Section, staffed by attorneys.

## **II. RESEARCH AND INFORMATION SERVICES**

State law requires the LRB to collect information about government and make it available in the most suitable form to aid "legislators, other public officials, students of government and citizens generally." It directs the LRB to use its materials to prepare studies and reports about subjects that are or may become items of concern to the legislature. The LRB's legislative analysts also produce the biennial *Wisconsin Blue Book*, the almanac of Wisconsin government, and assist the legislature in maintaining its Internet site, which includes the LRB's own Web page, where many of its publications are available electronically.

**Assistance to Legislators.** Since the bureau's founding, the primary concern of the LRB research staff has been to assist the state's legislators with their lawmaking duties and responses to constituents in their home districts. Each month, the legislative analysts provide immediate responses to dozens of requests from lawmakers' offices for background information, historical analysis, and summaries of legislation pending in Wisconsin and other states. They gather information from a variety of sources, including daily newspapers and periodicals, materials in the LRB's extensive library collection,



*Legislative Analyst Richard Roe provides friendly service at the LRB reference counter. (Kathleen Sitter, LRB)*

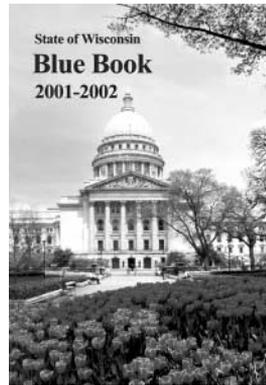
policy experts in Wisconsin and other states, databases maintained by the National Conference of State Legislatures and the Council of State Governments, the LEXIS-NEXIS national database of periodicals and publications, and the worldwide resources available on the Internet. The analysts also assist legislators and their staff in using the LRB library to do their own research.

By law, all requests from legislators to LRB staff must be handled in a nonpartisan, confidential manner, and the analysts must “perform reference services for all members of the legislature equally and impartially.”

**Informational Reports.** State law requires the LRB to prepare informational reports “regarding subjects which are or may become items of concern to the legislature, other public officials or the public generally.” Some studies are prepared at the suggestion of individual legislators, legislative interim committees, or administrative agencies. Other topics are chosen by the LRB staff. These publications fall into three categories: *Briefs* - relatively concise summaries about subjects of immediate interest; *Informational Bulletins* - com-

prehensive reports, normally dependent on secondary sources; and *Research Bulletins* - major studies of problems pertinent to Wisconsin state government.

**Wisconsin Blue Book.** A major service of the LRB is the preparation of the *Wisconsin Blue Book*, the 1,000-page biennial almanac of Wisconsin government. This unique resource, which is published in the fall of odd-numbered years, provides biographies and photographs of elected state officials in the legislative, executive, and judicial branches, as well as Wisconsin members of the U.S. Congress. It also contains the Wisconsin Constitution and in-depth descriptions of the organization, responsibilities, and history of each state agency. In addition, the *Blue Book* offers approximately 200 pages of basic statistical information about a wide range of state topics, such as population, school enrollment, agriculture, industry, elections, local government, social services, and state finance. Each edition includes a feature article on a subject of general interest to Wisconsin readers. The LRB strives to keep the *Blue Book* a useful and up-to-date resource, and it welcomes readers' suggestions and comments.



*The LRB has published the Wisconsin Blue Book since 1931. (Kathleen Sitter, LRB)*

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The *Blue Book* is available in print format and electronic format on the Internet. The LRB publishes a study guide for elementary and secondary schools to supplement each edition of the *Blue Book*. The guide is available from the LRB and individual legislative offices.

Each state legislator receives a specified number of complimentary copies of the *Blue Book* for free distribution, and copies are sent to all public and private schools in Wisconsin, as well as to public libraries and government officials. *Blue Book* sales are handled by the Department of Administration's Document Sales Unit, P.O. Box

7840, Madison, Wisconsin 53707-7840.

**LRB on the Internet.** In addition to supporting the legislature's site and editing its "Spotlight" on current happenings in the legislative branch, the LRB maintains its own Web page on the Internet at <http://www.legis.state.wi.us/lrb>. The LRB page describes the bureau's services and contains links to recent LRB publications, which are offered as pdf (portable document format) documents. The public can use e-mail to contact the LRB with requests for information about Wisconsin and the activities of the legislature.

**Services for All Patrons.** Although the principal mission of the LRB is to serve the Wisconsin Legislature, the research staff also devotes a major portion of its time answering the public's general and specific questions. Each day, legislative analysts handle numerous mail and telephone requests for information about Wisconsin



**STATE OF WISCONSIN**

**Legislative  
Reference Bureau**



A nonpartisan agency serving the Wisconsin Legislature since 1901

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- LRBCAT

**Stephen R. Miller, Chief**

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[email to Steve Miller, Chief](mailto:Steve.Miller@legis.wisconsin.gov)

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*The LRB Web page.*

state government, other state governments, and congressional matters. They also make periodic presentations to professional organizations, civic groups, and students to keep them updated on the legislative process, LRB research services, and the LRB library collection.

**Services for Attorneys and Legal Researchers.** Attorneys often ask the LRB for assistance in determining the legislative intent of particular sections of the Wisconsin Statutes. Although legislative analysts do not interpret the law and cannot engage in extensive research on private requests, the bureau does have various records that attorneys may find helpful. Attorneys are invited to visit the LRB and become acquainted with the resources available for researching the legislative history of statutes. The LRB also offers training sessions for attorneys, law clerks, and law librarians on the basic elements of legislative bibliography and process.

The LRB has a number of resources that are useful to attorneys and others conducting legal research:

- Bill drafting records (described in detail below).
- Listings of each bill's authors and its procedural history.
- Copies of bills and amendments from the current or past sessions.
- Reports by the Joint Legislative Council, Judicial Council, and governors' task forces relating to legislation introduced at the request of these bodies.
- Meeting minutes for Joint Legislative Council committees and the Judicial Council.
- Names of persons appearing or registering at legislative committee hearings since 1951.
- Newspaper clippings related to the subject matter of the bill.

Some information that patrons request does not exist or cannot be provided:

- Floor debates on bills before the Wisconsin Legislature are

not recorded in either verbatim or summary form.

- Oral testimony at legislative committee hearings and committee discussion usually is not recorded in either verbatim or summary form. (However, records of names of persons testifying for or against a bill are available.)
- Drafting records are not available for legislation considered before 1927.
- Comprehensive summaries of the legislators' voting record cannot be supplied by the LRB because of time constraints. The bureau cannot supply extensive voting records, such as the votes of all legislators on a number of proposals, or of a particular legislator on all measures for a session. Similarly, it cannot fill broad requests for voting records on "all important measures" or "all measures relating to schools". The research staff will, however, assist patrons in using legislative documents to locate this information for themselves.

**Bill Drafting Records.** As the legislative attorneys prepare bill drafts, they keep records reflecting each step of the process. Once a proposal is introduced, its drafting record is open to public inspection. These records may contain useful background information about the source or purpose of a particular piece of legislation. The LRB maintains a complete set of all drafting records for bills introduced and acts passed since 1927.

Contents of drafting files vary. Some files have only minimal information. Others may contain correspondence suggesting the purposes of a proposal, notes about the nature of the drafting request, copies of earlier bills that were used as models for the final version, records of the sponsoring group or individuals, and clues about who requested the legislation or the objective in proposing the measure.

The drafting records must be identified by number. Records for bills that were introduced, but not enacted, are filed by bill number. Drafting records of bills enacted into law are filed by their respective session years and their chapter or act numbers. (Prior

to the 1983 legislative session, new laws were called “chapters” when enacted and numbered in sequential order, e.g., Chapter 42, Laws of 1965. Since January 1983, the term “Wisconsin Act” has replaced “chapter”, e.g., 1997 Wisconsin Act 27.)

If it is not possible to identify the specific session law, the requestor can help the research staff by indicating the statutory sentence or phrase in question and the approximate date the language was changed.

Persons conducting legal research may inspect and copy drafting records in the LRB reading room. Complete copies of the drafting records on microfiche are also available at Marquette University Law Library, Milwaukee Public Library, the State Law Library (Madison), the State Historical Society of Wisconsin (Madison), and the University of Wisconsin-Madison Law Library. Those who cannot visit the Madison and Milwaukee sites may contact the LRB to secure microfiche copies of the records. There is a charge for this copying service; contact the LRB by phone or e-mail to check current costs. In addition, LRB legislative analysts occasionally answer questions about specific drafting records for persons who do not have access to the locations mentioned.

### III. THEOBALD LEGISLATIVE LIBRARY

The Dr. H. Rupert Theobald Legislative Library, named in honor of the bureau’s longest-serving chief, contains a wealth of informa-



*A letter from a constituent found in the drafting file provides background on 1995 Wisconsin Act 331. (LRB Collection)*

tion on public policy issues and constitutes the single most comprehensive source of information on Wisconsin legislation. Its holdings specialize in materials related to federal, state, and local government and a broad spectrum of topics that may be of interest to Wisconsin's lawmakers. The collection's major subject areas include legislative procedure, state finance, economic development, education, state administrative organization, environmental concerns, local government finance, social services, agricultural conditions, health, crime, and transportation. Although the library is organized primarily to meet the needs of the legislature, it is open to the general public.

The LRBCAT, the library's Web-based catalog offers many new services for library patrons, including easy searching of the library's holdings and the ability to make requests, renew materials, and confirm due dates online.

**Circulating Collection.** The circulating collection consists primarily of current research materials, augmented by some basic reference works and a small number of other books. It is cataloged in detail by subject and author. Most materials circulate for four weeks and loans may be renewed if necessary.



*The LRB library catalog is available on-line. (Kathleen Sitter, LRB)*



*A wide variety of reference materials are available in the LRB reading room.  
(Kathleen Sitter, LRB)*

**Clippings Collection.** A unique aspect of the legislative library is its vast collection of newspaper and periodical clippings, related to legislation and public administration with special emphasis on Wisconsin. This collection, which grows by about 20,000 items per year, provides information that is often not available elsewhere. It is classified by subject, which makes it easier to access than newspaper holdings in general libraries. The clippings files do not circulate, but they can be photocopied.

**Reference Collection.** The noncirculating reference collection, housed in the LRB reading room, includes an historical sequence of the Wisconsin Statutes, session laws, legislative journals and indices, Supreme Court reports and Attorney General opinions, and all bills introduced in the legislature since 1905. Other reference sources include: the *Wisconsin Administrative Code*, the *U.S. Code*, U.S. census publications, the *Congressional Record*, and a small number of other common government references, such as *The Book of the States*, *U.S. Government Manual*, *Statistical Abstract of the United States*, *Congressional Quarterly Weekly Report*, and *State Tax Guide*. General encyclopedias, dictionaries, and almanacs are also available.

**Wisconsin State Documents Collection.** The bureau attempts to collect copies of all publications produced by Wisconsin state government agencies. Materials in the collection range from informational brochures, directories, and newsletters to annual reports, meeting minutes, and program evaluations. Although a number of the more recent titles are available in electronic format over the Internet, the library will continue collecting print copies, whenever possible, to insure these publications will be permanently available. Items in the document collection do not circulate.

**Copying Services.** Because clippings files, reference works, drafting records, and state documents do not circulate, patrons may photocopy materials at a nominal cost. Copies of individual microfiche or photocopies of the microfiche are available to LRB patrons at a reasonable charge, and mail requests are accepted and processed as quickly as workload permits. The LRB offers one free copy of any item on microfiche to Wisconsin state or local governmental



*Marian Rogers, Managing Librarian, in the LRB bookstacks. (Kathleen Sitter, LRB)*

agencies or governmental agencies in other states.

**Subject and Author Index.** LRB librarians prepare the Index to the *Bulletin of Proceedings of the Wisconsin Legislature*, which gives a complete listing by primary authors and cosponsors or by subject for all bills, joint resolutions, and resolutions introduced during a legislative session. (The Index also contains an index to the daily journals, a subject index to Wisconsin acts, and a listing of legislation introduced by legislative committees.)

Portions of the Index appear on the legislature’s Web site and are updated every Friday when the legislature is in session. A paper version of the cumulative Index is printed every Tuesday during legislative sessions and less often when the legislature is not in session. The LRB also publishes a directory of registered lobbyists and lobbying organizations and the legislative liaisons for the executive branch, based on information provided by the Ethics Board.

**IV. LEGAL SERVICES**

**LRB Drafting Services.** By law, the LRB is responsible for drafting all legislative proposals and related amendments for introduction in the legislature. Legislative attorneys may accept bill drafting requests from legislators (members and members-elect), legisla-

<b>Blue Book</b>	
Blue book distribution and legislator allotment modified; legislative office expense allowance authorized .....	AB-710
Blue book: publication in computer-readable format authorized; licensing and copyright provisions; LRB responsibilities revised .....	SB-637
<b>BOALTC, see</b> Aging and long-term care, Board on	
<b>Board of health, see</b> Public health	
<b>Boat</b>	
Alcohol beverages on privately owned boats: restrictions created .....	AB-522
Alcohol concentration: prohibited level set for certain vehicle operators; chemical tests and applicable levels for other intoxication offenses (including firearm violations) revised .....	SB-605
Boat repair and storage costs: lien provision created .....	SB-120
Boat storage: lien provisions created .....	AB-414
Boat toilet waste: onshore disposal facilities provision created .....	SB-456
Boathouse damage repairs; certain exceptions provided [A. Amdt. 26 to A. Sub. Amdt. 1: Sec. 1657zm, zq] .....	AB-150
Boathouses: DNR rules may not govern aesthetic features or colors of [A. Amdt. 26 to A. Sub. Amdt. 1: Sec. 1657ym, zt] .....	AB-150
Boating laws revised re intoxicated boating; absolute sobriety, safety certificates, operation by minors, speed limits, corrective lenses, night operation, personal watercraft and water skiing; DNR to promulgate model ordinance for local regulation of inland lakes .....	AB-439

*The Index to the Bulletin of Proceedings, compiled by LRB librarians, provides subject access to bills introduced in the Wisconsin Legislature. (LRB Collection)*

tive service agencies, independent interim committees of the legislature, and state executive and judicial agencies. Others, including lobbyists, may use the LRB drafting services only upon the specific request of a legislator.

During a single legislative session, the bureau handles approximately 14,000 drafting requests for statutory changes. More than 5,000 are for separate bills and, of those, about 1,800 are eventually introduced for consideration on the floor of the legislature. By law, the LRB's drafting services must be conducted on a nonpartisan and confidential basis. No information about a drafting request, including the existence of such a request, can be released until the measure has been introduced in the legislature (unless release is authorized by the requestor).

The amount of time and effort required to produce a particular draft varies according to the scope of the proposal, the complexity of the legal problems involved, and the extent to which the statutes already treat the subject. If there are existing statutes pertaining to the subject, the legislative attorney may have to develop language to amend or repeal some of them. If no statute exists, it will be necessary to create one or more provisions. Any statutory change that the draft creates must take into account the state and federal constitutions, federal laws and regulations, pertinent court cases, and any common law principles upon which Wisconsin law is based.

Amendments may be necessary or desirable after a proposal has been reviewed at a public hearing or debated on the floor of either house. Legislative attorneys assist legislators by drafting either simple amendments to the original draft proposal or substitute amendments, that completely replace the original.

The LRB has developed special tools to assist legislators and the public in reviewing pending legislation. For example, every bill includes an analysis, written by the legislative attorney who drafts it, explaining the effect of the proposal in clear and concise language. The analysis must be factual, complete, and impartial, but the reader should be alert to the fact it relates only to the measure at the time of

introduction and does not reflect subsequent amendments.

Another helpful tool, which Wisconsin pioneered, is the “fiscal estimate”. Every bill that creates, increases, or decreases an appropriation or alters the fiscal liability or revenues of state or local government must carry an estimate of its fiscal effect. When drafting a bill, the legislative attorney decides whether the bill requires a fiscal estimate. If it does, the draft is sent to the agency or agencies that



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-39562  
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## 2001 ASSEMBLY BILL 572

October 16, 2001 – Introduced by VETERANS AND MILITARY AFFAIRS. Referred to  
Committee on Veterans and Military Affairs.

1 AN ACT to create 21.80, 106.54 (7), 111.91 (2) (gm), 230.32 (7) and 230.45 (1) (m)

2 of the statutes; relating to: reemployment rights after national guard or state

3 defense force service, providing an exemption from emergency rule-making

4 procedures, and granting rule-making authority.

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*Analysis by the Legislative Reference Bureau*

**Introduction**

Under current federal law, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) provides certain reemployment rights and benefits to persons who are absent from employment because of service in the armed forces or the national guard under federal law (service in the uniformed services). USERRA, however, does not cover person who are absent from employment because of service in the national guard or the state defense force under state law or because of certain service in the national guard under federal law that is not considered to be service in the uniformed services under USERRA (active service). This bill provides for persons who are absent from employment because of active service under state law certain reemployment rights and benefits that are parallel to the reemployment rights and benefits that are provided under USERRA for persons who are absent from employment because of service in the uniformed services under federal law.

**Entitlement to reemployment rights**

The bill requires any employer, including the state, employing one or more persons on a permanent basis to reemploy a person who is entitled to reemployment

*Section 13.92 (1) (b) 1, Wisconsin Statutes, requires the LRB drafting section to “Prepare in proper form all legislation to be introduced in the legislature.” (LRB Collection)*

are responsible for the program or have the greatest knowledge of the subject, and they are asked to determine projected revenues or expenditures. When completed, the fiscal estimate is printed and becomes an official attachment to the introduced bill.

The LRB is responsible for printing “engrossed” or “enrolled” versions of bills, which reflect the latest action taken on the measures. The bureau may engross the text of a bill that has passed one house, if the chief clerk of the house requests a printing; it must enroll the final text of any bill that has passed both houses before the measure is presented to the governor for signature.

**Other Legal Services.** When the legislature is in floor session, drafting work takes priority but, as time permits, legislative attorneys may be asked to attend committee hearings or meetings to offer impartial analyses of drafts or to explain legal matters pertinent to pending proposals. At a legislator’s request, the drafting attorney may also meet with the legislator, the legislator’s constituents, or other interested persons to explain drafts and discuss possible redrafts or amendments.

LRB attorneys perform additional legal functions, including:

- Preparing summaries of new state laws and significant court decisions for publication by the LRB;
- Answering general legal questions from legislators and public officials;
- Assisting state agencies and others concerned with questions of legislative intent and statutory construction;
- Assisting the legislature in procedural rules determinations;
- Preparing legal memoranda and opinions at the request of public officials or public agencies;
- Engaging in public speaking or instruction on legislative functions and other subjects;
- Staffing conference and other ad hoc committees; and
- Conducting research on drafting methods and legal issues.

Legislative attorneys also maintain contact with administrators,

legislators, and other sources about implementation of new legislation in order to suggest improvements in the law.

## V. CHIEFS OF THE LEGISLATIVE REFERENCE BUREAU

### Charles McCarthy, 1901-1921

Charles McCarthy, who created the agency now known as the Legislative Reference Bureau and served as its first chief, was born to Irish immigrant parents in Brockton, Massachusetts, on June 29, 1873. He achieved distinction as an All-American football player at Brown University, and later coached football at the University of

*“There should be a body of experts to gather information about the laws, to obtain statistics, to draft and redraft through the guidance of the representative of the people, laws which deeply affect the people . . . We have been convinced that there is a great opportunity to better legislation through work of this kind - that the best way is to help directly the man who makes the laws.” - 1912*



Georgia for two seasons before attending the University of Wisconsin, where he earned a Ph.D. in history in 1901. That same year, the Free Library Commission established a library for the legislature in the capitol and appointed McCarthy to fill the position of chief document clerk at a salary of \$83.33 per month. (McCarthy chose to be called “chief”, and the title continues today.)

An advocate of the progressive movement, McCarthy strongly supported “The Wisconsin Idea” that emphasized the debt of service the University of Wisconsin owed to the state and its citizens. His objective in collecting information from all over the world was to promote well-drafted, innovative legislation that would survive court

challenge and serve as a model for other states and the federal government. He also worked to develop vocational education, first in Wisconsin in 1911 and later nationally through promotion of the Smith-Hughes Act of 1917, which created federal aids for vocational schools.

Because of McCarthy's political activism, Governor Emanuel Philipp attempted to dismantle the bureau in 1915, but McCarthy successfully defended the mission of the LRB and later became a trusted advisor to Philipp. Later in his career, McCarthy served the federal government as the first director of the U.S. Commission on Industrial Relations and as a personal aide to Herbert Hoover in the Food Administration during World War I. An early exponent of farmers' cooperatives for purchasing and marketing, he influenced the system of state regulation of railroads and public utilities. He also urged municipal budget reform, the commission type of city government, and widening the state's educational opportunities through the University Extension program. Hoping to improve his health, he journeyed to Prescott, Arizona, where he died on March 25, 1921. The Wisconsin Legislature honored his service with a bronze plaque, installed in the Assembly Chamber.

### Edwin E. Witte, 1922-1933

McCarthy's protégé and successor, Edwin E. Witte, was born on a farm near Watertown, Wisconsin, on January 4, 1887. In 1905, he entered the University of Wisconsin, where he majored in history and earned a Ph.D. in economics in 1927. After working as an aide to Congressman John M. Nelson

*"The legislative reference library is the servant, not the master, of the legislature. Not only does it not promote legislation but its staff is cautioned to avoid expressions on any controversial issue . . . It is a service which calls for honesty, industry, intelligence, and tact to the 'nth' degree." - 1931*



and serving five years as secretary of the Wisconsin Industrial Commission, Witte served as chief of the Legislative Reference Library from 1922 to 1933, when he returned to the University of Wisconsin as a professor of economics.

In 1934, Witte was named executive director and research synthesizer for President Franklin D. Roosevelt's Committee on Economic Security. While working in this capacity, he drafted the federal Social Security Act of 1935. Previously, he had published a book in 1932, entitled *The Government in Labor Disputes*, and he made significant contributions to the drafting of the Norris-LaGuardia Anti-Injunction Act of 1932. In succeeding years, Witte served as a member of the President's Committee on Administrative Management, the War Labor Board, the Advisory Council for Employment Security, and the Atomic Energy Labor Relations Panel. In 1948, he organized and became the first president of the Industrial Relations Research Association and, in 1955, he was elected president of the American Economic Association.

Witte chaired the Department of Economics at the University of Wisconsin from 1936 to 1941 and again from 1946 to 1957, and Witte Hall, a residence hall at the UW-Madison, was named in his honor. He died on May 20, 1960, in Madison.

### **Howard Ohm, 1933-1949**

Born on September 9, 1891, in Spalding, Michigan, Howard Ohm attended elementary and high school in Milwaukee. He entered the University of Wisconsin at Madison in 1908 and received his law degree five years later.

*"It has been the aim of this department to be able to supply any legislator with material on any subject upon which he may inquire, and to do so in the briefest possible time." - 1936*



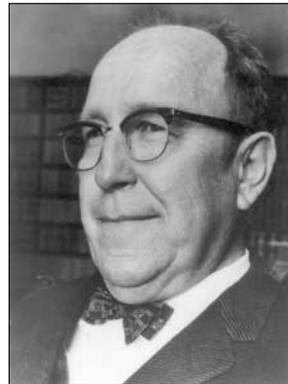
His practice with the firm of Riley and Ohm specialized in legislative research, bill drafting, and law revision. He also served as counsel for a number of legislative interim committees and did legal work for the Board of Public Affairs. From 1927 to 1931, Ohm was an examiner for the Workmen's Compensation Division of the Industrial Commission. In 1933, he was appointed chief of the Legislative Reference Library.

Ohm was the first president of the Legislative Service Conference and helped found and organize the Madison Chapter of the American Society for Public Administration. He died on October 5, 1949, in Madison.

### **Marinus G. [Gus] Toepel, 1950-1963**

Born in Sheboygan, Wisconsin, on November 11, 1905, Gus Toepel received a B.A. from the University of Wisconsin in 1927 and an M.A. in political science in 1936. After teaching high school for a short time, he worked as a research assistant at the University of Texas and a field investigator and senior rating board examiner for

*"...the Legislative Reference Library is strictly nonpartisan. Not only is this true of the bill drafting function in which the staff will draft a bill in accordance with the specifications made out by any member of the legislature, but it is also true of the library facilities in which material is sought on all points of view." - 1951*



the U.S. Civil Service Commission.

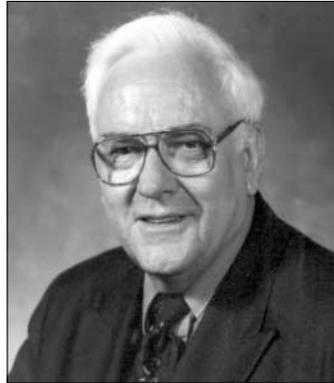
Toepel served in military intelligence in the U.S. Army during World War II and became educational coordinator for the Wisconsin Taxpayers Alliance after the war. He later was expeditor for the UW-Extension Center at Racine and the first director of the Green Bay Extension Center. From 1947 to 1949, Toepel served as execu-

tive secretary of the Wisconsin Education Commission. He directed the UW-Extension Division's Bureau of Government until he was appointed chief of the LRB in June 1950. He remained at this post until his death on July 12, 1963, in Madison. During his tenure as chief, Toepel emphasized legislative research and began publishing LRB research in a series of bulletins.

### **H. Rupert Theobald, 1964-1994**

When he retired in July 1994, Dr. H. Rupert Theobald held the record as the longest serving director of a legislative service agency in the nation. In recognition of his many accomplishments and years of service to the citizens of Wisconsin, the legislature directed that the LRB library be formally named the "Dr. H. Rupert Theobald Leg-

*"The most important effort that a democracy can make to keep democracy alive is to keep its citizens informed about their government." - 1964*



islative Library" and that a bas relief be commissioned in his honor and permanently installed in the Assembly Chamber.

Born in Berlin, Germany, on March 12, 1930, Theobald attended colleges and universities in Germany before coming to Wisconsin. He won a scholarship to the University of Wisconsin as a journalism student in 1950 and became a U.S. citizen in 1955. He completed his graduate studies at the University of Wisconsin-Madison, earning his M.A. in political science in 1960 and his Ph.D. in the same field in 1971. His dissertation focused on legislative and congressional reapportionment.

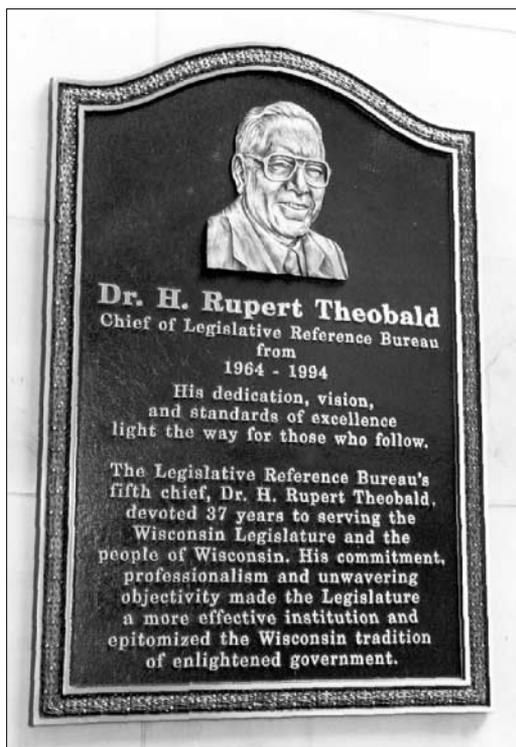
Theobald joined the LRB staff in 1957 as a research associate.

He was named coordinator of reference and research in 1960, served as acting chief in 1963, and was appointed bureau chief in January 1964.

During his 30-year tenure as chief, Theobald pioneered the development and installation of the nation's first computerized system for bill drafting and statutory retrieval. He was also recognized for his expertise in redistricting, parliamentary procedure, the legislative process, and state government organization. In 1986, he received the first Council of State Governments' Charles McCarthy Award for Leadership in Information Services, a special honor because the national award is named for the LRB's founding chief.

### **Stephen R. Miller, 1998-**

Stephen R. Miller became the LRB's sixth chief on June 16, 1998. He was born in Muncie, Indiana, in 1950 and attended Ball State



*A plaque honoring Dr. H. Rupert Theobald was installed in the Assembly Chamber in a ceremony on May 29, 1997. (Kathleen Sitter; LRB)*

University, receiving a bachelor's degree in English. He moved to Mississippi in 1973 to attend graduate school at the University of

*“The LRB will provide services that will help enable the Wisconsin Legislature to lead the nation in making public policy that responds to the needs of the state. All members of the Legislature will quickly receive the highest quality legal, research and information services they require. To produce these services, the LRB will bring to bear the highest level of intellectual power and professional competency available.” - 1999*



Mississippi, where he was awarded a master's degree in business administration and a law degree.

Miller served as the first hearing officer for the Mississippi Employee Appeals Board and worked for several years as general counsel to the Mississippi Legislature's Joint Committee on Performance Evaluation and Expenditure Review. He also managed the legislature's redistricting office. He is active in the National Conference of State Legislatures, having served on the Executive Committee and as staff chair of the Redistricting Task Force.

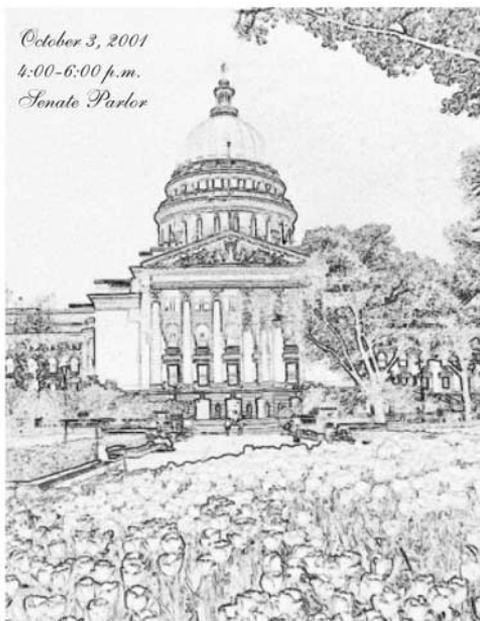
**LEGISLATIVE REFERENCE BUREAU**  
**Stephen R. Miller, Chief**

## VI. Appendices

### A. LRB Centennial Program

*State of Wisconsin  
Legislative Reference Bureau  
Celebrating 100 Years of Service 1901-2001*

*October 3, 2001  
4:00-6:00 p.m.  
Senate Parlor*



LRB Centennial Program Speakers

*Speakers*

**Fred A. Risser**

President of the Senate

**Scott Jensen**

Speaker of the Assembly

**Steve Miller**

Chief, Legislative Reference Bureau

**Professor John Witte**

Director of the La Follette Institute of Public Affairs  
Professor of Political Science and Public Affairs  
University of Wisconsin, Madison

## B. 2001 Assembly Resolution 34



State of Wisconsin  
2001 – 2002 LEGISLATURE

LRB-3919/1  
SRM:cmh:pg

## 2001 ASSEMBLY RESOLUTION 34

October 2, 2001 – Introduced by Representatives JENSEN and BLACK.

**Relating to:** commemorating the 100th anniversary of the Wisconsin Legislative Reference Bureau.

Whereas, the Wisconsin Legislative Reference Bureau celebrates its 100th anniversary this year; and

Whereas, the Legislative Reference Bureau was the first agency in the United States established to provide nonpartisan, professional staff services to the legislature and today drafts thousands of bills, amendments, and resolutions each year, in addition to providing legal advice and assistance to the legislature; and

Whereas, the Legislative Reference Bureau served as a model for state legislatures seeking a more professional and systematic process and inspired the creation of the Congressional Research Service; and

Whereas, the implementation of the Wisconsin Idea, which encouraged University of Wisconsin faculty to join legislators and professional staff to help the legislature work more effectively and efficiently, was aided immeasurably by the

research services provided by the Legislative Reference Bureau and by the vision of the Bureau's first chief, Charles McCarthy; and

Whereas, the Legislative Reference Bureau collects and catalogs state documents, books, pamphlets, and news articles relating to public policy and lawmaking and provides a subject index to all bills introduced by the Wisconsin legislature; and

Whereas, the Legislative Reference Bureau performs valuable research for the legislature on questions of public policy and serves as a vital source of information about state government for all Wisconsin residents; and

Whereas, since 1929, the Legislative Reference Bureau has published the *Wisconsin Blue Book*, a comprehensive guide to state government, containing information about elected officials and state agencies and general statistical information about Wisconsin; and

Whereas, each of the five people chosen to serve as chief of the Legislative Reference Bureau since Charles McCarthy has continued to uphold the high standards for professional, nonpartisan legislative staff services established by its first chief; and

Whereas, the Legislative Reference Bureau, in concert with its sister legislative service agencies, is an integral part of the Wisconsin legislature and Wisconsin state government; now, therefore, be it

***Resolved by the assembly, the senate concurring, That*** the legislature commemorates the 100th anniversary of the Wisconsin Legislative Reference Bureau and expresses its appreciation for the dedicated nonpartisan, professional services that the staff of the Legislative Reference Bureau has provided for the last century.

(END)