

The State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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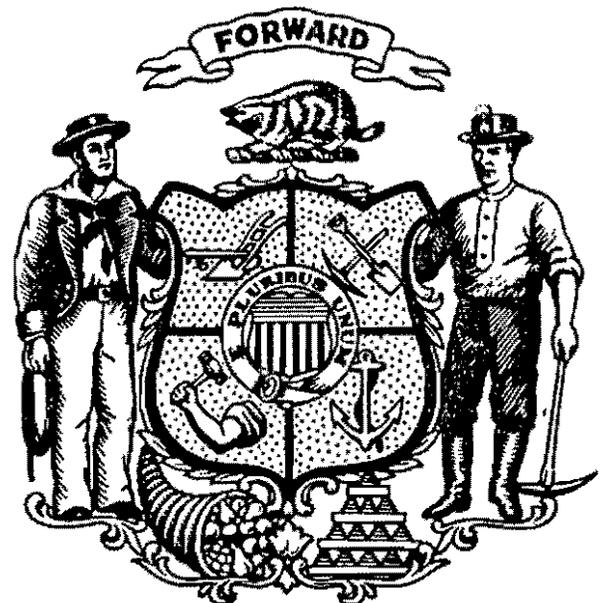
ASK THE LRB

Informational Bulletin 89-IB-3

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ASK THE LRB

I. INTRODUCING THE LEGISLATIVE REFERENCE BUREAU

The Legislative Reference Bureau (LRB) is a nonpartisan service agency of the Wisconsin Legislature. It provides bill drafting, reference and research, and legislative library services. The administrative staff consists of:

CHIEF: Dr. H. Rupert Theobald

5th Floor, 100 North Hamilton Street

Telephone: (608) 266-3561

DEPUTY CHIEF AND DIRECTOR OF LEGISLATIVE ATTORNEYS: Peter J. Dykman

5th Floor, 100 North Hamilton Street

Telephone: (608) 266-7098

DIRECTOR OF REFERENCE AND LIBRARY: Lawrence S. Barish

2nd Floor, 100 North Hamilton Street

Telephone: (608) 266-0344

SUPERVISING LIBRARIAN AND LEGISLATIVE INDEX EDITOR: Mina M. Waldie

2nd Floor, 100 North Hamilton Street

Telephone: (608) 266-0346

Come In or Call

Main entrance — 100 North Hamilton (2nd floor).

BILL DRAFTING — 5th Floor.

Telephone: (608) 266-3561

DRAFT PICK UP (Bill Drafts) — 5th Floor.

Telephone: (608) 266-3561

REFERENCE, RESEARCH AND LIBRARY — 2nd Floor.

Telephone: (608) 266-0341

LRB Office Hours

7:45 a.m. to 5:30 p.m. — On every day on which either house of the legislature holds a floor session. On session days and when requested by the Joint Committee on Finance, the LEGAL SECTION retains the needed staff until the legislature or the committee adjourns.

7:45 a.m. to 5:00 p.m. — On Monday through Thursday from November 13, 1989, to May 31, 1990, except as above.

7:45 a.m. to 4:30 p.m. — On all other days including any Friday unless the legislature meets on that day and meets again on Saturday.

The LRB remains open during the noon hour.

LRB Drafting, Reference, and Library Services

The LRB was established primarily to give the legislature unbiased, professional research and bill drafting assistance. The statutes also direct the bureau to serve public officials, students of government, and citizens. To fulfill its statutory mandate, the LRB provides nonpartisan assistance and factual information about all aspects of state and local government.

Because the LRB's primary responsibility is to serve the legislature, its staff can give only limited assistance to others. However, the bureau's extensive reference and library collection is available to all patrons.

The LRB Staff

The LRB has 51 permanent, classified positions, all filled on the basis of merit under Wisconsin's civil service law. The agency is headed by a chief and is divided into 3 sections: the Legal Section, staffed by attorneys; the Reference Section, staffed by research analysts; and the Library Section, staffed by librarians and support personnel. A central office staff provides personnel, editorial, and clerical services for the entire agency.

**Legal Section
5th Floor**

- | | |
|---|---|
| <p>THEOBALD, H. RUPERT, Chief — 266-3561
 Constitutional Amendments
 Legislative Rules</p> <p>DYKMAN, PETER J., Deputy Chief — 266-7098
 Budget (Generally)
 Government Organization
 Legislature</p> <p>FAST, TIMOTHY N., Atty. — 266-9739
 Highways
 Transportation</p> <p>FEUSTEL, BRUCE, Senior Attorney — 266-0131
 Correctional System
 Criminal Law</p> <p>GIBSON-GLASS, MARY, Atty. — 267-3215
 Natural Resources
 Public Defender</p> <p>GRANT, PETER R., Atty. — 267-3362
 Education (K-12)
 Eminent Domain
 Higher Education</p> <p>HAGOPIAN, SUZANNE L., Atty. — 266-2682
 Business Associations
 Insurance
 Securities</p> <p>KENNEDY, DEBORA A., Atty. — 266-0137
 Health
 Mental Health</p> <p>KUESEL, JEFFERY T., Senior Attorney — 266-6778
 Claims
 Collective Bargaining
 Elections
 Ethics
 Lobbying
 State Finance
 Unemployment Compensation</p> | <p>LOEFFLER, JULIE A., Atty. — 266-0135
 Agriculture
 Bonding, State
 Buildings and Safety</p> <p>LORENCE, JOHN J., Atty. — 267-7380
 Common Carriers
 Corporate Income Taxation
 Energy
 Financial Institutions and Finance
 Real Estate
 Utilities</p> <p>MAZACK, EVELYN, Atty. — 266-9738
 Beverages
 Children
 Domestic Relations</p> <p>NELSON, ROBERT P., Atty. — 267-7511
 Courts and Procedure
 Supreme Court Rules
 Veterans</p> <p>SHOVERS, MARC E., Atty. — 266-0129
 Counties
 Individual Income Tax
 Municipalities</p> <p>STARK, JACK, Atty. — 266-7291
 Taxation (except Income Tax)</p> <p>STERN, BARRY J., Atty. — 266-8906
 Administrative Law
 Gambling
 Occupational Regulation
 Retirement</p> <p>TRADEWELL, REBECCA C., Atty. — 266-7290
 Environment
 Probate
 Welfare</p> |
|---|---|

<u>Area of Specialization</u>	<u>Attorney</u>	<u>Area of Specialization</u>	<u>Attorney</u>
Administrative Law	Stern	Gambling	Stern
Agriculture	Loeffler	Government Organization	Dykman
Beverages	Mazack	Health	Kennedy
Bonding, State	Loeffler	Higher Education	Grant
Budget (generally)	Dykman	Highways	Fast
Buildings and Safety	Loeffler	Insurance	Hagopian
Business Associations	Hagopian	Legislative Rules	Theobald (Chief)
Children	Mazack	Legislature	Dykman
Civil Service	—	Lobbying	Kuesel
Claims	Kuesel	Mental Health	Kennedy
Collective Bargaining	Kuesel	Municipalities	Shovers
Common Carriers	Lorence	Natural Resources	Gibson-Glass
Constitutional	Theobald (Chief)	Occupational Regulation	Stern
Amendments		Probate	Tradewell
Correctional System	Feustel	Public Defender	Gibson-Glass
Counties	Shovers	Real Estate	Lorence
Courts and Procedure	Nelson	Retirement	Stern
Criminal Law	Feustel	Securities	Hagopian
Discrimination	—	Shared Revenue	—
Domestic Relations	Mazack	State Finance	Kuesel
Economic Development	—	Supreme Court Rules	Nelson
Education (K-12)	Grant	Taxation (except income)	Stark
Elections	Kuesel	Taxation, corp. income	Lorence
Eminent Domain	Grant	Taxation, ind. income	Shovers
Employment (except	—	Trade Regulation	—
collective bargaining and		Transportation	Fast
unemployment compensation)		Unemployment Compensation	Kuesel
Energy	Lorence	Utilities	Lorence
Environment	Tradewell	Veterans	Nelson
Ethics	Kuesel	Welfare	Tradewell
Financial Institutions	Lorence	Worker's Compensation	—
and Finance			

Reference, Research and Library Services

Although research analysts are generalists and handle a wide variety of inquiries, through their work on research reports and the Blue Book they have developed certain areas of specialized knowledge. When patrons contact the research desk, they will be referred to the analyst best able to assist them. While the research analysts initially respond to most inquiries, librarians are also available to answer technical questions relating to their respective specialties.

Reference and Library Sections

BARISH, LAWRENCE S., Director of Reference and Library

Research Staff

MELOY, PATRICIA E., Research Analyst (lead analyst)

AREY, BETTE B., Research Analyst

CANNON, A. PETER, Research Analyst

RADATZ, CLARK G., Research Analyst

RITSCH, DANIEL F., Research Analyst

ROE, RICHARD L., Research Analyst

WATCHKE, GARY A., Research Analyst

Library Staff

WALDIE, MINA M., Supervising Librarian and Legislative Index Editor

ARNOLD, ROSE A., Librarian

LEMANSKI, LYNN, Publications Editor

MONK, JANET S., Librarian

ROGERS, MARIAN G., Librarian

II. A UNIQUE INSTITUTION

The LRB was the first legislative service agency in the nation to provide a state legislature with both professional drafting and research assistance. From its creation in 1901 to the present, it has provided multifaceted services for the legislature: bill drafting, reference and research, and legislative library services.

Drafting. The LRB is responsible for drafting all bills, joint resolutions, substitute amendments, and simple amendments introduced in the Wisconsin Legislature. Legislative attorneys also prepare the plain language analyses that explain all bills and most resolutions, and they perform other legal services relating to legislative matters. (See Section III, below, for an explanation of legal services.)

Reference and Research. Research analysts can assist the legislator considering a legislative proposal and the attorney drafting the proposal by providing background information about the historical development of the problem, model laws, and similar measures and their results in other states. Reference services include answering questions about legislation and other aspects of government, preparing informational reports about state governmental problems, and publishing the biennial *Wisconsin Blue Book*. Legislative attorneys also participate in preparing the Blue Book and assist research analysts whenever detailed legal information would be helpful. (See Section IV, below, for an explanation of reference and research services.)

Legislative Library. To aid the reference, research, and bill drafting functions, the LRB maintains an extensive collection of materials pertaining to state and local governments and the federal government. Because this collection is a part of a legislative service agency (in contrast to a general purpose library), it consists of materials which pertain to the legislative process. To help library patrons locate information as rapidly as possible, librarians catalog the collection in detail by subject. They also prepare the index volume of the "Bulletin of Proceedings of the Wisconsin Legislature," which provides a quick subject guide to all introduced bills, resolutions, and joint resolutions. Although the library is open to the public, it is organized primarily to meet the needs of legislators and their staffs and the legislative service agencies. (See Section IV, below, for an explanation of library services.)

III. LEGAL SERVICES

A. Making a Drafting Request

Statutory Services

Section 13.92 (1) (b) of the Wisconsin Statutes requires the LRB to prepare all legislative proposals for introduction in the legislature as bills or joint resolutions. This service also covers any amendments to these proposals. The agency's legislative attorneys, aided by editors and support staff, perform the drafting services, always guided by the statutory mandate to provide nonpartisan, confidential service. No information about a bill draft or drafting request, including the existence of the request, is released until after the measure has been introduced in the legislature, unless the requester authorizes its release to a specific person or otherwise requests its release.

As a service to the chief clerks of the 2 houses, the Legal Section also enrolls the final text of all legislation that has passed both houses and engrosses the text of bills passed by one house when a chief clerk directs the printing of engrossed copies.

Who May Request a Bill Draft

Legislative attorneys may accept bill drafting requests from legislators (members and members-elect), legislative standing committees, the Legislative Council, the Legislative Fiscal Bureau, the Revisor of Statutes Bureau, independent interim committees of the legislature, state agencies, the Judicial Council, and the governor's special committees. Certain major local governments and organizations, such as Milwaukee County, the League of Wisconsin Municipalities, Wisconsin Counties Association, Wisconsin Towns Association, and Wisconsin State Employees Union also have drafting privileges.

For all others, including lobbyists, the LRB provides bill drafting services only at the specific request of a legislator or standing committee. Requests should be submitted in writing; a letter, note, or just the legislator's signature on drafting instructions is acceptable. However, because it is not always easy to secure written approval, legislative attorneys also accept oral instructions from legislators. The authorization, whether oral or written, should relate to a specific proposal. This ensures that legislators have full knowledge of all proposals initiated under their names and thus avoids misunderstandings between legislators and the LRB.

When to Request a Bill Draft

Drafting requests should be submitted as soon as possible, preferably before the January session begins. It is especially important to submit more complex legislation early. The more time the LRB has to prepare a draft, the more comprehensive its work can be. The best legal product is a result of complete research, painstaking drafting, and thorough editing, typing, and proofreading. A drafting request which must be processed on short notice cannot benefit from all of these essential components. Moreover, even one time-consuming request can aggravate backlog problems. The result is that other drafts may be delayed several months. Once the initial draft of a request has been prepared, required redrafts receive priority over new requests. When legislation has been introduced, the LRB always tries to keep current on drafting requests for amendments.

In some cases, the LRB attorney may serve the legislator more quickly and efficiently by preparing an informational memorandum rather than a complete bill draft. In the memorandum, the attorney can outline the problem to be addressed and the proposed solution without conducting all the research or investing the time necessary to complete an entire bill draft. Preparing informational memoranda helps to reduce the drafting backlog because it enables the attorneys to concentrate drafting time on proposals the legislator decides are urgent.

In recent years, only 40 percent of the drafts prepared by the LRB have been introduced. Each drafting request, however, must receive the same careful attention. There are several ways the legislator can help reduce individual delays and facilitate the drafting of the large number of requests the LRB receives:

- The legislator can judge in advance whether the draft will actually be introduced as a bill. Weeding out requests for drafts that will not be submitted can substantially reduce backlogs in the bill drafting process.
- It is helpful if the legislator can identify in advance the specific problem to be addressed. The LRB attorneys need to know the precise nature of the problem before they can suggest an appropriate solution that satisfies the state and federal constitutions and is both legally sound and administratively feasible. The more information the requester can provide, the better. The LRB staff will be glad to discuss a problem and possible solutions. If a state agency, local public employe, or any other party has background information about the drafting request, the requester can also help by allowing the legislative attorney

to contact that source. Without this authorization, the statutes require the LRB to keep the drafting request strictly confidential.

- It is best to discuss the problem to be addressed with a legislative attorney before *any* drafting occurs. A draft prepared by someone who lacks specific training or who has limited drafting experience may actually increase, rather than decrease, preparation time. Because of the increasing complexity of the law, and the drafting techniques necessary to reflect precise legislative intent and maintain statutory organization, legislative attorneys usually function more effectively if they prepare an initial draft after discussing the problem with the person making the policy recommendation.

B. The Drafting Process

The LRB encourages legislators to provide as much pertinent information as possible when submitting drafting requests. A clear-cut statement of what the proposal is intended to accomplish is important. LRB research analysts may be able to assist in obtaining preliminary information. Because increasingly complex drafting assignments require knowledge of background information and related law, the LRB assigns drafts on the basis of the subject area specializations developed by the legislative attorneys. Legislators are encouraged to talk to the proper subject area specialist.

The requester must furnish the raw material for any draft. The LRB cannot, and will not, make basic policy choices. Its staff also cannot comment on a proposal's desirability as a matter of public policy. Legislative attorneys can and will, however, use their legal knowledge and drafting skills to express the requester's ideas in writing as clearly as possible in order to accomplish the requester's desired change in the law without constitutional conflict.

To highlight the substantive changes embodied in a bill draft, and to minimize the amount of striking and underscoring seen on a page, legislative attorneys try to keep technical changes in drafts to a minimum. Of course, the LRB will make technical changes in any draft upon request or when clarification of existing laws is a prerequisite to proper interpretation of the proposed language.

After reviewing the legislative attorney's initial draft, the requester may suggest revisions. The attorney will then prepare a second draft of the proposal and further drafts, if desired. When the legislator decides that the bill is in satisfactory order, the LRB prepares the documents necessary to introduce the measure in the legislature. When introducing an original draft, preparation of the bill jacket and the required number of copies takes about one day.

The LRB handles approximately 15,000 drafting requests in this manner during a legislative session. Of these, more than 5,000 are requests for bills.

C. The Work of the Legislative Attorney

Bills

Legal drafting work varies according to the scope of the proposal, the extent to which the statutes already treat the subject, and the complexity of the legal problems involved. All drafting requests demand a thorough review, regardless of the form in which the instructions are submitted. Existing laws must be examined. If one or more statutes pertain to the subject, the legislative attorney may have to develop language to amend or repeal some of them. If no statute exists, the attorney must create one or more provisions that fit into the entire body of statutes. Conformity with overriding provisions of the state and federal constitutions, federal laws and regulations, and court cases that interpret these

provisions is essential. Finally, the draft must also take into account any common law principles upon which Wisconsin law is based.

The legislative attorney may provide a drafter's note or a memorandum explaining problems or issues of which the requester may be unaware. Such a note can pinpoint any difficulty that might prevent achieving the requester's intent or otherwise impair operation of the proposal. It can also provide additional information about the proposal or the law that governs the subject of the proposal.

When the legislature is in session, the LRB must give priority to previously assigned drafting work. If time is available, however, and a legislator requests, legislative attorneys can attend committee hearings or meetings to offer impartial analyses of drafts or to explain legal matters pertinent to pending proposals. They are willing to meet with the legislator, his or her constituents, or other interested persons at mutually convenient times to explain drafts and discuss possible redrafts or amendments.

Bill Analyses

All bills which are introduced (and most joint resolutions and resolutions) include an analysis written by the same legislative attorney who drafted the bill. The analysis attempts to explain the effect of the proposal in clear and concise terms that are understandable by a layperson.

The analysis and bill draft are submitted to the requester at the same time. The requester should read the analysis before introducing the bill to determine whether or not the draft actually accomplishes the requester's intent.

The legislative attorney writes the analysis for the information of all 132 members of the legislature and anyone else interested in a proposal. The analysis must be factual, impartial, and complete. It is not the purpose of the analysis to advocate passage or rejection of the proposal. When time permits, the LRB also prepares analyses for bills that are ordered engrossed.

Substitute and Simple Amendments

In addition to bills, the LRB's Legal Section prepares substitute amendments (complete alternate proposals) and simple amendments. Frequently, amendments become necessary or desirable after a proposal has been thoroughly aired at a public hearing. Although simple amendments can be offered from the floor without prior review by the Legal Section, the LRB urges legislators to request amendments in advance, if at all possible, so that an attorney can prepare each amendment in proper form before it is submitted to a vote. It has become increasingly difficult to draft complete and proper amendments to complex proposals, and in recent years some floor amendments containing inadvertent defects have resulted in confusion and delay. The LRB gives high priority to amendment requests, especially when a proposal is on the current calendar. Amendments are almost always drafted by the same legislative attorney who prepared the original bill, and requests for amendments should be transmitted to this person whenever possible. (The attorney's initials are given in capital letters in the upper right corner of the bill.)

The Legal Section can also assist any legislators by drafting amendments to a bill when it is on the floor. The legislative attorney who drafted the bill will be able, in many cases, to prepare a floor amendment immediately in proper form. For the best service, however, the LRB urges that amendment requests be submitted before a bill reaches the floor.

D. Fiscal Estimates

Every bill that increases or decreases fiscal liability or revenues must carry a reliable estimate, called a "fiscal estimate", setting forth its fiscal effect on state or general local governments. Therefore, when the LRB drafts a proposal, the legislative attorney must make a tentative decision about whether the measure requires a state or local fiscal estimate.

If the answer is "yes", the legislator may ask the LRB to obtain a fiscal estimate *during the drafting stage*. In this case, the draft is sent through the Department of Administration to the agency or agencies administering the program or having the greatest knowledge of the subject of the proposal. That agency determines what the revenues or costs would be. When possible, it is desirable to obtain the fiscal estimate during the drafting stage, before introduction of the proposal. At this point, the estimate will give the requester increased knowledge of the proposal's fiscal effects and an opportunity to modify it, if desired.

The fiscal estimate is returned and, when approved by the requester, is printed at the end of the proposal. If the requester does not agree with the fiscal estimate, he or she should consult with the legislative attorney who drafted the proposal and decide whether to: 1) drop the idea; 2) redraft the proposal to change the fiscal effect; or 3) contact the agency that prepared the estimate and attempt to convince it that a mistake was made.

The agency is given no information about the identity of the requester when it prepares the estimate. If the requester wishes, the legislative attorney can continue to preserve that confidentiality by contacting the agency on the requester's behalf.

The requester may decide against obtaining a fiscal estimate at the drafting stage. *After introduction*, however, one copy of the proposal is automatically sent to the Department of Administration for a fiscal estimate. The fiscal estimate is returned to the LRB, and the requester has 5 working days to review it. If a requester disagrees with a fiscal estimate, several options are available, and the legislative attorney can help the requester decide which is the most appropriate. After the 5 working days, the fiscal estimate is printed and attached to the proposal in the same manner as an amendment.

E. Other Legal Services

To gain and maintain the expertise necessary to perform drafting services as promptly and accurately as possible, legislative attorneys perform additional legal functions, including the following:

1. Preparing summaries of new state laws and significant court decisions for publication by the LRB;
2. Answering general legal questions from legislators and public officials;
3. Assisting attorneys and others concerned with questions of legislative intent and statutory construction;
4. Preparing legal memoranda and opinions at the request of public officials or public agencies;
5. Engaging in public speaking or instruction on legislative functions and other subjects;
6. Staffing conference committees and other ad hoc committees; and
7. Aiding state agencies with legal writing and certain other legal services upon request.

Increasingly, legislative attorneys attempt to maintain contact with administrators, legislators, and other sources concerning the operation of new legislation in order to suggest improvements in the law and to prevent past problems from recurring in future legislation. These "follow-through" services are the result of the increasing

professionalism of legislators and their concern that their proposals are properly implemented after enactment. To aid the LRB, legislative attorneys conduct research and write memoranda about legal issues raised by particular types of proposals and methods of drafting. The attorneys are also responsible for attending seminars and conducting the research necessary to stay abreast of developments in their areas of legal expertise.

IV. REFERENCE, RESEARCH AND LIBRARY SERVICES

A. Services for Legislators

Statutory Services

Section 13.92 (1) (a) of the Wisconsin Statutes makes the LRB responsible for collecting and making available in the most suitable form, information about government that will aid legislators and others in performing their duties. This section of the law also directs the LRB to use its materials to prepare studies and reports about subjects that are or may become matters of concern to the legislature. The LRB's research analysts regularly locate, compile, and digest information about pending and past legislation and about government generally.

Information for Bill Drafts

The legislator may find it helpful to contact a research analyst to obtain more detailed information about the topic of concern, either before contacting a legislative attorney or during the drafting process. All requests to research analysts are handled in a nonpartisan, confidential manner.

To assist requesters, the LRB research analysts can:

1. Prepare reports containing background information, historical development, and current legislation related to the drafting proposal;
2. Locate studies made by other states or federal agencies and other information on the topic through:
 - a. the LRB legislative library's extensive collection which specializes in information about government activities in all 50 states and related federal agencies;
 - b. LEGISNET, the automated clearinghouse of research information maintained by the National Conference of State Legislatures;
 - c. LEXIS-NEXIS data base, which includes a variety of periodicals and publications;
 - d. other state and national sources;
3. Provide other states' laws on the topic; and
4. Survey and summarize pertinent legislation pending in other states.

Assistance with Reference Searches and Constituent Requests

By statute, the Reference Section of the LRB must "perform reference services for all members of the legislature equally and impartially". It is also bound to be strictly nonpartisan and to maintain confidentiality regarding the reference requests it receives.

Though much of the research done by the analysts involves long-term studies, they answer many questions that require quick checking of readily available library sources or use the expertise developed through past research. They also help legislators and their staff use the LRB library to do their own research. The analysts can either compile information to help legislators or staff answer constituent letters or, when requested, they can answer such requests on the legislator's behalf.

Informational Reports

Part of the LRB's statutory mandate is to prepare informational reports about government problems, with special reference to Wisconsin. Some are prepared at the suggestion of individual legislators, legislative interim committees, or administrative agencies. Other topics are chosen by the LRB itself.

1. *Wisconsin Briefs* — relatively short, concise summaries of materials about subjects of high immediate interest. Recent examples include:

- Brief 86-7 Keeping Kids Safe on School Buses: The Seat Belt Question. June 1986
- Brief 86-11 State Budget Bills: Annual or Biennial? November 1986
- Brief 86-12 An Introduction to Wisconsin. January 1987
- Brief 87-4 Seat Belts and Air Bags: A Summary of Issues, April 1987 Update. April 1987
- Brief 87-8 Wisconsin's State Lottery. December 1987
- Brief 88-2 Chapters Reprinted from the 1985-86 Wisconsin Statutes. February 1988
- Brief 88-4 Summary of the 1987-88 Wisconsin Legislative Session, 1987 Wisconsin Acts 1 to 399. May 1988
- Brief 88-6 Compensation of Wisconsin Legislators 1836 to 1989. July 1988
- Brief 88-7 Candidates: Primary Election, September 13, 1988. July 1988, Revised August 2, 1988
- Brief 88-9 Candidates: General Election, November 8, 1988. October 1988
- Brief 88-10 1989 Wisconsin Officers. November 1988
- Brief 88-11 Brief Biographies 1989 Wisconsin Officers. December 1988
- Brief 89-1 Profile of the 1989 Wisconsin Legislature as of January 1, 1989. January 1989
- Brief 89-2 Wisconsin Women Legislators — A Historical List. January 1989
- Brief 89-3 Executive Partial Veto of 1989 Senate Bill 31, Executive Budget Bill Passed by the 1989 Wisconsin Legislature (1989 Wisconsin Act 31). August 1989
- Brief 89-4 State Officers Appointed by the Governor as Required by Statute. September 1989

2. *Informational Bulletins* — comprehensive reports, normally dependent on secondary sources. Recent examples include:

- IB-85-1 Issues Related to Utility Diversification and Holding Companies. October 1985
- IB-85-2 Beyond Bingo: The State Lottery Experience. November 1985
- IB-85-3 The Question of Statewide Minimum Teachers' Salaries. December 1985
- IB-86-1 Pari-Mutuel Betting on Horse Racing. April 1986
- IB-86-2 Regulation of Pornography: Striking a Balance Among Competing Interests. April 1986
- IB-86-5 Wisconsin's County Sales and Use Taxes: A New Version of an Earlier Concept. October 1986
- IB-87-1 The Homeless: A Primer. January 1987
- IB-87-2 The 65 MPH Speed Limit. May 1987
- IB-87-3 The Partial Veto in Wisconsin — An Update. October 1987, Revised August 1988
- IB-88-1 Drugs in the Workplace: A Discussion of Issues. February 1988, Revised May 1988
- IB-88-3 A Thumbnail History of Wisconsin Veterans' Legislation. August 1988
- IB-88-6 Electronically Monitored Home Confinement: A New Alternative to Imprisonment. December 1988
- IB-89-1 Constitutional Amendments Given "First Consideration" Approval by the 1987 Wisconsin Legislature. January 1989
- IB-89-2 The Ground Rules of A Special Session. October 1989

3. *Research Bulletins* — the result of major studies of problems pertinent to Wisconsin state government. Recent examples include:

- RB-85-1 A Legislative History of Shared Revenue In Wisconsin. January 1985
- RB-88-1 Childbearing by Contract: Issues in Surrogate Parenting. March 1988
- RB-88-2 Summary of the 1987-88 Wisconsin Legislative Session: 1987 Wisconsin Acts 1 to 422. August 1988

Wisconsin Blue Book

Another function of the LRB research analysts is to prepare the *Wisconsin Blue Book* for biennial publication in the fall of odd-numbered years. This publication, which is a detailed almanac of Wisconsin government, constitutes a major part of the state's effort to keep the electorate informed.

The Blue Book is very helpful in answering constituent questions about Wisconsin government. It provides biographies and pictures of state-level elected public officials (administrators, Supreme Court justices, and legislators), as well as Wisconsin members of the U.S. Congress. It also contains articles describing the organization, responsibilities, and accomplishments of the state agencies comprising the legislative, executive, and judicial branches.

The book offers almost 200 pages of basic statistical information about topics such as population, school enrollment, agriculture, industry, elections, local government, social services, and state finance. Each edition also contains the Wisconsin Constitution and a feature article on a subject of general interest. For example, the feature article of the 1989-1990 edition presented an overview of how Wisconsin's waterways contributed to the state's development and continue to shape its growth, and provided suggested tours of points of interest along the major rivers of the state.

The LRB has no role in Blue Book distribution. Like most other state publications, the Blue Book is distributed by Document Sales, Department of Administration, P.O. Box 7840, Madison, Wisconsin 53707. The price reflects the cost of production; for the 1989-1990 edition, the cost is \$6.55 plus Wisconsin sales tax and county sales tax, if applicable (\$8.45 plus taxes by mail). Checks should be made payable to Document Sales and Distribution. Complimentary copies are sent to all public and private schools in Wisconsin, as well as to public libraries and government officials. By statute, state legislators receive a specified number of complimentary copies to distribute as they wish.

To increase the Blue Book's usefulness in classrooms, the LRB publishes a study guide related to the current edition of the Blue Book. This guide is available through the LRB.

B. Services for Attorneys

Attorneys in private practice often ask LRB research analysts for assistance in determining the legislative intent of particular sections of the Wisconsin Statutes. Although research analysts are not permitted to interpret the law and cannot engage in extensive research on private requests, the bureau does have various records that attorneys may find useful.

By understanding the LRB's functions, attorneys in private practice can avoid making inappropriate requests and can make effective use of the bureau's services. Attorneys are welcome to visit the LRB and become acquainted with the resources available to assist them in researching the legislative history of statutes. The LRB also offers information sessions for attorneys, law clerks, and law librarians on the basic elements of legislative bibliography and process.

Bill Drafting Records

When legislative attorneys prepare bill drafts, the LRB keeps careful records of each step of the process. After a proposal is introduced, its drafting record is open to public inspection. The LRB has a complete set of all such records since 1927 on microfiche. It also maintains the original copies of draft materials for the acts passed in the past 5 legislative sessions and bills introduced in the past 3 sessions. Although drafting records do not circulate outside the LRB library, persons conducting legal research may inspect

and copy these records in the reference room. Photocopies can be made, and copies from microfiche are available at a charge of 20-cents per page. It is also possible to obtain microfiche copies of drafting records by specifying the year and bill or act number and remitting \$1 per fiche plus \$2 for postage and handling. Several other major libraries also have complete copies of drafting records on microfiche: Marquette University Law Library, Milwaukee Public Library, the State Law Library (Madison), the State Historical Society (Madison), and the University of Wisconsin-Madison Law Library. LRB research analysts occasionally will prepare summaries of significant facts from drafting records for persons who do not have access to these locations.

Drafting records are not designed to transcribe legislative intent, but to describe developments in the drafting process. As a result, they vary in their completeness. They may contain nothing helpful. Sometimes, however, they 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 was interested in the legislation or what objective was sought in proposing the measure.

Drafting records of bills enacted before 1981 are filed by "chapter" number. Those of bills enacted since then are filed by "act" number. Records of bills not enacted are filed by house of origin and bill number. Therefore, it is essential, that attorneys who write or call for information from a drafting record:

1. Cite the specific session law that made the statutory change in which they are interested. If it is impossible to find the session law, they should indicate the statutory sentence or phrase with which they are concerned. If they know approximately when the section was changed, that, too, is helpful.
2. Provide a complete and accurate citation to the section, subsection, and paragraph of the statute in question.
3. Briefly state the question they want answered or explain the problem. This will help the research analyst determine which materials in the drafting record may be relevant to the problem.

Other Records

LRB resources also include:

1. The name of the author of a bill and the procedural history of the bill in the legislature (from the "Bulletin of Proceedings of the Wisconsin Legislature").
2. Copies of relevant parts of bills and amendments of current and past sessions.
3. Reports by the Legislative Council, Judicial Council, and governors' task forces relating to legislation introduced at the request of these bodies. (Such reports may take the form of notes to sections of the bill.)
4. Meeting minutes for Legislative Council committees and the Judicial Council.
5. Names of persons appearing or registering for or against a bill at public hearings since 1953.
6. Newspaper clippings, some of which may relate to the bill under investigation. (In the case of controversial measures, newspapers may provide some coverage of floor debate and testimony at public hearings.)

Information the LRB Cannot Provide

Some types of information which patrons request simply does not exist. For example, the LRB CANNOT provide:

1. Copies of floor debates on bills in the Wisconsin Legislature. Unlike the *Congressional Record*, the Journals of the Wisconsin Legislature merely record procedural action, not debate.
2. Copies of testimony at legislative committee hearings. Again, unlike congressional hearings, a record of committee testimony is not kept in Wisconsin. As noted, however, the names of persons testifying for or against a bill are available.
3. Detailed legislative committee reports. Committee reports to the legislature usually contain only the committee's recommendation for adoption or rejection of amendments and its recommendation for passage or indefinite postponement (concurrence or nonconcurrence in the case of a bill received from the other house). Committees normally keep a procedural record showing action taken on bills and the vote of committee members.
4. Drafting records for legislation considered before 1927. The 1927 session is the first in which drafting records were preserved.

C. Services for All Patrons

Although the LRB is primarily designed to serve the Wisconsin Legislature, the statutes require it to make reference services available to other patrons, including public officials, students of government and citizens generally. The LRB devotes a major portion of its time to helping Wisconsin residents seeking information about Wisconsin government in general or a specific bill, students looking for resource material for term papers, and employes of Wisconsin agencies or legislative service bureaus in other states. This assistance is provided within the limits imposed by LRB resources and the current legislative workload.

Each day research analysts answer reference and spot research questions for the general public about Wisconsin 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 LRB research services and show them how they can use the LRB library collection in conducting their own research.

Legislative Library Collection

Circulating collection. The LRB's specialized collection of published materials is essential to the agency's research and reference services. The collection consists primarily of current materials augmented by many basic reference works and a small number of other books. It contains official reports of administrative agencies in Wisconsin and other states, studies of social, economic, and governmental problems, and legislative records. To facilitate its use, the collection is cataloged in detail by subject and author.

The collection emphasizes state and local governments, but covers, in addition, a broad range of social science subjects that have a direct bearing upon the operation of state and local governments. Major subject areas include legislative procedure, state finance, economic development, education, state administrative organization, environmental concerns, local government finance, social services, agricultural conditions, crime, and transportation.

Patrons may borrow most materials in the LRB collection for 2 weeks and may renew loans if necessary.

Clipping collection. An unusual part of the LRB library is its vast collection of clippings in the areas of legislation and public administration. Clippings provide current information that is often unavailable from other sources. This collection, which grows by

about 20,000 new items per year, is classified by subject and filed with the circulating collection, but because clipping files cannot be replaced, they do not circulate.

Reference collection. The noncirculating reference collection includes the Wisconsin Statutes, session laws, legislative journals and indexes, Supreme Court reports, and opinions of Attorneys General — covering the period since Wisconsin became a Territory in 1836 — and all bills introduced in the legislature since 1897. It also contains the *Wisconsin Administrative Code*, the *U.S. Code*, U.S. census publications, the *Congressional Record*, and a small number of other common reference works such as the *Book of the States*, the *U.S. Government Manual*, *Statistical Abstract of the United States*, *World Almanac*, encyclopedias, the *Congressional Quarterly Weekly Report*, and the *State Tax Guide*.

In the reference room, patrons will also find a card index to all legislation introduced since 1897. Entries are filed chronologically by subject. There is, in addition, a card index to all statute sections affected by bills introduced since 1951.

Wisconsin state document collection. The document collection consists of the drafting records of all legislation introduced in the Wisconsin Legislature since 1927 and one copy of each publication issued by Wisconsin state government agencies. Materials in the document collection do not circulate.

State agency publications in the document collection are kept in a special section of the library stacks where they are filed alphabetically by issuing agency. Each agency's materials are organized so that all reports of a given type, such as biennial reports, are together. Similarly, the separate catalog of state documents files publications alphabetically by issuing agency and then by title under the agency.

Current Wisconsin state publications can be found either on the regular shelves, arranged by subject and available for loan, or in the state document collection, arranged by agency and available for reference purposes only. Rare publications and infrequently used items are housed only with the state document collection.

Office copier. Some materials in the LRB collection do not circulate. For example, clipping files, reference works, drafting records, and state documents can be used only in the library. To reduce the inconvenience to patrons, the LRB provides a copier on which a limited number of copies can be made if necessary.

Microfiche reader. All bill drafting records, as well as the entire clipping collection through 1970, have been microfilmed. Most clippings from 1971 to date exist in hard copy only. The LRB will provide one free copy of any item on microfiche to any Wisconsin state or municipal agency or agencies of other state governments. Other patrons must pay a 20-cent per page charge for copies made from microfiche.

Subject and Author Index

LRB librarians prepare the subject and author index to the legislation and legislative journals of the Wisconsin Legislature. This cumulative index is issued every Tuesday morning during legislative floorperiods and is updated at irregular intervals when the legislature is not in session. Under subject headings and under the names of primary authors and cosponsors, the index provides an abstract of each bill, resolution, and joint resolution introduced in the Wisconsin Legislature. It also lists lobbyists and provides subject indexes for the legislative journals and to all bills enacted.

Voting Records of Legislators

Due to time and staff limitations, the LRB cannot supply the voting record of all legislators on a number of proposals or of a particular legislator on all measures. Similarly, it cannot fill broad requests for voting records on "all important measures" or "all measures relating to schools". The LRB can, however, supply voting records of all legislators on a specific measure or the record of a single legislator on a very limited number of specific bills. Patrons can help by refraining from requests that exceed these guidelines.

Requests from Students

School children from all parts of the United States write to the LRB requesting information about Wisconsin. In a democratic system, which depends on well-informed citizens, providing such information is essential. The LRB staff will be able to serve these young researchers more effectively if they observe the following guidelines:

- Please do not ask the LRB to find information that can be found in any encyclopedia or general reference work.
- Every school and public library in Wisconsin contains the *Wisconsin Blue Book*, which presents comprehensive material about Wisconsin government. Please use the Blue Book to answer as many questions as possible.
- When possible, use the Blue Book to identify which state agency handles the type of activity being researched (for example, the Department of Transportation is responsible for issuing drivers' licenses). Then, address questions directly to the agency itself.
- Because the LRB does not have sufficient quantities of its publications to permit wholesale distribution, the staff prefers to receive requests indicating that a publication will be used by an entire class and will become part of the class or school library for use by future classes. The LRB provides its publications without charge, but the public pays for preparation and distribution.

V. HISTORY OF THE LEGISLATIVE REFERENCE BUREAU

In 1901, the Wisconsin Legislature enacted Chapter 168, Section 373f, which authorized the Free Library Commission to "maintain in the state capitol, for the use and information of the legislature, the several state departments, and such other citizens as may desire to consult the 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." Before that date, the Historical Library and the State Library, both located in the Capitol, had filled these needs. However, when the Historical Library moved to its new building on the university campus and the State Library changed from a general library to one specifically designed to serve the Wisconsin Supreme Court, there was no resource center for materials related to the legislative process; the 1901 law provided one.

Creation of the Legislative Reference Library marked the first effort in the nation to provide professional staff assistance to a state legislature. Although New York had established a legislative reference library as a section of the state library in 1890, Wisconsin expanded the concept of service to the legislature by collecting and making immediately available many kinds of informational material. This concept has proved successful. Since its inception, the Legislative Reference Library — now the Legislative Reference Bureau — has gradually increased in size and scope of activities. As a pioneer, it has served as the primary model for similar agencies in other states.

Chapter 238, Laws of 1903, extended the bureau's duties by directing the Free Library Commission to maintain a reference room in the State Capitol. Chapter 508, Laws of 1907, added an appropriation for bill drafting, although the bureau had performed this service from the beginning. In 1907, the legislature also instructed the LRB to index session laws, statutes, private and special laws, bills, documents, and journals from the beginning of the state's history.

Chapter 772, Laws of 1913, further enlarged the bureau's duties by instructing it to collect, summarize, and index "information of a legislative nature relating to legislation of foreign countries, of states of this country, the federal government and municipalities." This law directed the agency to make "such investigation into statute law, [and] legislative and governmental institutions as will aid the legislature to perform its duties in the most efficient and economical manner."

Editing the Blue Book became an LRB function with passage of Chapter 194, Laws of 1929, which directed the agency to prepare that publication biennially. The Blue Book was to contain "lists of senators and assemblymen and statistical and other information but so selected and condensed as will limit the number of pages to 900 or less." It was also to be made useful for civics classes in schools.

The LRB expanded its bill drafting services in response to Chapter 554, Laws of 1965, which instructed the agency to enroll all measures passed by the legislature. Enrolling means preparing a text that incorporates all amendments agreed to by both houses before submitting the measure to the governor.

Chapter 43, Laws of 1967, directed the LRB to prepare "in plain language" an analysis of the original draft of each bill.

Chapter 82, Laws of 1971, moved Blue Book publication to odd-numbered years and increased its size to 1,000 pages. The additional pages permitted inclusion of organization charts of state agencies. A preprint of the Blue Book section about the organization of state government was to be issued before the Blue Book itself. The preprint was discontinued by Chapter 260, Laws of 1981.

The Wisconsin Free Library Commission was the governing body of the Legislative Reference Library from 1901 until August 1, 1963. The commission was an unpaid, part-time body composed of 5 members: 3 *ex officio* members (the president of the University of Wisconsin, the state superintendent of public instruction, and the secretary of the State Historical Society) and 2 citizens appointed by the governor for 5-year terms. The commission's main functions in relation to the reference library were selection of the agency's chief under the classified civil service laws, annual review of the agency's work, and approval of its budget.

Chapter 149, Laws of 1963, renamed the Legislative Reference Library as the Legislative Reference Bureau and, on August 1, 1963, placed the LRB under the supervision of the Joint Committee on Legislative Organization (JCLC). The JCLC consists of the speaker of the Assembly, the president of the Senate, and the majority and minority leaders and assistant majority and minority leaders of both houses. The joint committee, acting as the policy-making body for the LRB and the other legislative service agencies, determines the types of tasks to be assigned to each. The JCLC also selects the LRB chief under the classified civil service, considers and approves the agency's budget, and may adopt regulations for its operation.

Since its inception, the LRB has performed its duties on an impartial, nonpartisan, confidential basis. Charles McCarthy, the first director of the Legislative Reference Library, recognized at the outset that, to serve the legislature effectively, the agency must

have protection from partisan or political pressures. In 1906, he advised officials of other states: "The department must be entirely non-political and non-partisan or else it will be worse than useless. If you have the choice between establishing a political department and no department at all, take the latter." (*Wisconsin Library Bulletin*, July-August, 1906, p. 55)

Thus, the legislature initially placed the agency under a nonpartisan commission and placed the staff in the classified service. Later, when the LRB was transferred to legislative supervision, its staff remained in the classified service. Governor John Reynolds, said he did not want "this to become a political football". (*The Milwaukee Journal*, November 4, 1963) Further, he said: "We have had great men as directors of the reference library in the past. It would be a shame if it now became a partisan matter. Each party should have faith in the impartiality of the reference library. If the director is chosen on a party basis, it will wreck the reference library, and that is what I am concerned about." (*The Capital Times*, November 4, 1963)

VI. CHIEFS OF THE LEGISLATIVE REFERENCE BUREAU

Only 5 persons have served as chief of the Legislative Reference Bureau since its organization in 1901.

H. Rupert Theobald, 1963—

Born in Berlin, Germany, on March 12, 1930, the LRB's fifth chief attended colleges and universities in Germany before coming to Wisconsin. While a graduate student at the West Berlin *Freie Universitaet* with concurrent majors in journalism and political science-law, he had achieved "candidate of philosophy" standing and had begun his doctoral dissertation. He won a scholarship to the University of Wisconsin as a journalism trainee-special student in 1950-51 and became a U.S. citizen in 1955. He earned both of his graduate degrees in political science from the University of Wisconsin-Madison, the M.A. degree in political science in 1960 and the Ph.D. degree in 1971. His dissertation focused on legislative and congressional reapportionment.

In Germany, Dr. Theobald was trained as an interpreter and worked part-time as a newspaper free-lance reporter. In the United States, he held various jobs before joining the LRB staff. He became a research associate of the LRB in 1957, coordinator of reference and research in 1960, acting chief in the fall of 1963, and chief on January 16, 1964.

Dr. Theobald was appointed to the Commission on Interstate Cooperation by Governor Reynolds in 1963 and reappointed by Governor Knowles. He was a statutory member of the commission from 1966 until the body was abolished in 1984.

During the 1965-67 interim, Dr. Theobald served on the Executive Branch Reorganization Committee, which studied functional reorganization of the executive and legislative branches of Wisconsin state government, and on the Data Processing Committee of the Legislative Council.

Two National Legislative Conference committees have benefitted from Dr. Theobald's leadership as vice chairman — the Research Liaison Committee in 1966 and 1967, and the Legislative Data Processing Committee in 1969 and 1970. In 1980 and 1981, Dr. Theobald served as National Vice Chairperson of the Council of State Governments' Committee on Suggested State Legislation.

Dr. Theobald's scholarly writings include the feature articles in the Blue Books of 1964 (state government), 1970 (redistricting), and 1985-1986 (parliamentary procedure). His research and drafting efforts have been concentrated in the areas of constitutional law, government organization, legislative districting, and the legislative process. He has

pioneered many legislative computer applications, including the sophisticated system for bill typing and text handling currently used by the Wisconsin Legislature.

Marinus G. Toepel, 1950-1963

The LRB's fourth chief was born in Sheboygan, Wisconsin, on November 11, 1905. He 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 as a Field Investigator and Senior Rating Board Examiner for the U.S. Civil Service Commission.

After serving in military intelligence in the U.S. Army, Toepel became Educational Coordinator for the Wisconsin Taxpayers Alliance. He later became Expeditor for the University of Wisconsin Extension Center at Racine and the first Director of the Green Bay Extension Center. From 1947 to 1949, Toepel served as Executive Secretary of the Wisconsin Education Commission. He directed the University of Wisconsin-Extension'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. During his tenure as chief, Toepel emphasized legislative research and began publishing LRB research in a series of bulletins.

Howard Ohm, 1933-1949

Born on September 9, 1891, in Spalding, Michigan, Howard Ohm attended elementary and high schools in Milwaukee. He entered the University of Wisconsin-Madison in 1908 and, 5 years later, received his law degree.

While practicing law with the firm of Riley and Ohm, 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 served as an examiner for the Workmen's Compensation Division of the Industrial Commission. In 1933, he was appointed chief of the Legislative Reference Library.

Ohm also 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.

Edwin E. Witte, 1922-1933

The LRB's second chief 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 and serving 5 years as secretary of the Wisconsin Industrial Commission, Witte became chief of Wisconsin's Legislative Reference Library in 1922.

In 1933, Witte returned to the University of Wisconsin as a professor of economics and in 1934 became executive director and research synthesizer for President Franklin D. Roosevelt's Committee on Economic Security. While working in this capacity, Witte drafted the federal Social Security Act of 1934-35. Previously, he had 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.

Witte published a book in 1932 entitled *The Government in Labor Disputes*. In 1948, he organized and became the first president of the Industrial Relations Research Association. In 1955, he was elected president of the American Economic Association.

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

Charles McCarthy, 1901-1921

Charles McCarthy, the first chief of the agency now known as the Legislative Reference Bureau, was born to Irish immigrant parents on June 29, 1873, in Brockton, Massachusetts. He achieved distinction as an All-American football player at Brown University, and later coached football at the University of Georgia for 2 seasons before attending the University of Wisconsin where he earned a Ph.D. in political science in 1901. His thesis, which dealt with the Anti-Masonic Party, received the Justin-Winsor Prize from the American Historical Association in 1902.

In 1901, the Free Library Commission established a library for the legislature in the Capitol and appointed McCarthy to fill the position of "document clerk" at a salary of \$83.33 per month.

An advocate of the Progressive movement, McCarthy strongly supported "The Wisconsin Idea" as a way of expressing the statewide service mission of the University of Wisconsin.

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. 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. He died in Prescott, Arizona, on March 25, 1921.