THE WISCONSIN
TAXPAYER

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Waupun Prison

Inside Wisconsin Corrections

Inmate Numbers Down, But Starting to Rise Again

Wisconsin's prison system houses almost 23,000 inmates, a number that surged in the 1990s, then stabilized, and eventually declined in the past decade. Inmates are generally older than in past decades, serving time for more serious crimes, and more likely to ultimately be returned to prison under the "truth in sentencing" laws. These shifts all carry important budgetary and policy implications for state government.

Crime and prisons are among the most volatile of public issues. Citizens expect to be protected from lawbreakers. Victims demand justice from offenders. And society bears the cost of both crime and incarceration.

In Wisconsin, the state spends about $1.1 billion annually on the Department of Corrections, mostly for prisons.

As in many other states, prison populations in Wisconsin increased in the 1990s. They then stabilized and declined over the following two decades.

In recent years, that downward trend has started to reverse, with both inmate numbers and crime rates starting to increase. The demography of Wisconsin's prison population is also changing as inmates age and serve longer sentences.

Given these changes, as well as corrections' impact on state spending, long-and short-term trends in both prison populations and expenditures merit attention, as does an often asked question: Who does Wisconsin incarcerate, for what crimes, and at what cost?

THE SYSTEM

Although "jail" and "prison" are often interchangeable in popular terms, they refer to different types of institutions serving significantly different purposes in the correctional system.

Terminology

Jails are operated by counties and principally house inmates awaiting trial, or those serving sentences of less than a year for less serious crimes (misdemeanors).

Prisons are operated by the state Department of Corrections and house offenders convicted of more serious offenses (felonies) that carry a sentence of one year or more.

While it may be an oversimplification, the distinction falls along

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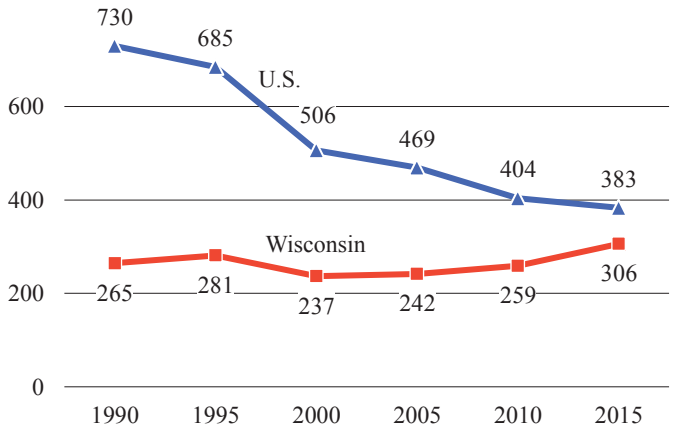
Figure 1: Violent Crime Down in U.S., Rising in Wis.
Rate per 100,000 Residents, 1990-2015



these lines: shoplifters and other petty criminals go to jail, while robbers and murderers go to prison.

Facilities and Programs

Wisconsin's prison system is almost as old as the state itself. The first prison was built in Waupun in 1853. Remodeled in 1940, it remains a maximum-security prison housing more than 1,200 inmates.

The Wisconsin Department of Corrections (DOC) operates 37 correctional institutions and centers. They are divided into maximum, medium, and minimum security institutions, as determined by the physical barriers between inmates, staff, and the public.

DOC has six maximum-security, 11 medium-security, and 19 minimum-security institutions, plus the Wisconsin Resource Center, which provides mental health services in a secure facility. DOC also operates a secure juvenile facility in Lincoln County near Irma.

DOC's Division of Community Corrections, supervises offenders who are placed on or released through probation, parole, or extended supervision. As of mid-2016, DOC supervised 67,443 offenders in the community, of whom 46,802 were on probation.

CORRECTIONS: RECENT HISTORY

To understand current prison trends in Wisconsin, recent history can be divided into four main periods: From 1990 to 1999, when populations increased dramatically; from 2000 to 2007, when growth slowed; from 2008 to 2012, when inmate numbers actually declined; and from 2013, when both crime rates and prison populations began to rise again.

In general, this pattern followed the violent crime rate. Although the Badger State has had a lower violent crime rate than the nation as a whole, violent crime here rose from 1990 to 1995, declined through 2000, and has been gradually rising since. This contrasts with the national trend, which has consistently declined over the same period (see Figure 1).

1990 to 1999: Rapid Growth

As in many other states, the 1990s brought a sudden and massive expansion of Wisconsin's prison population (see Figure 2, page 3). From 1990 to 1999, the Wisconsin prison population nearly tripled, from 7,332 to 20,111. During most of this time, population increased by at least 10% annually.

The rapid rise reflected several factors: a national "tough-on-crime" mood that prompted increases in penalties for many crimes; public pressures on prosecutors and judges to impose harsher sentences on offenders; and moves to reduce or eliminate early releases of offenders.

The rise in inmates during the 1990s led to a boom in prison construction. DOC opened 12 new correctional facilities and added nearly 7,000 beds.

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To temporarily ease overcrowding, DOC also housed inmates in Wisconsin county jails (contract beds) and out-of-state private prisons. Wisconsin stopped sending inmates to other states in 2007.

State spending on corrections also more than doubled. It is difficult to compare DOC's budget growth through the 1990s because the department took control of juvenile corrections facilities—a $92 million expenditure—in 1997.

Nevertheless, DOC spending in its current form grew from $494 million in 1997 to $1.04 billion in 2007, a 110% increase. Corrections spending as a share of the general fund budget also grew from 5.3% to 7.9% during the same period.

2000 to 2007: Still Growing, But Slower

Inmate population growth began to slow after 1999. While increasing 11.4% in 1999, the number of inmates grew just 1.3% in 2000. For the period between 2000 and 2007, population rose a total of 13.8%. Still, the numbers were significant; inmate population reached its all-time high, 23,184 in 2007.

Compared to the previous period, spending increases also moderated somewhat, rising 46.1% in seven years to $1.04 billion in 2007. As a share of the general fund budget, corrections grew to 7.9%.

However, one statutory change that proved to have major long-term consequences for prison populations came in 2000, when the "truth in sentencing" law took effect. The impact of this law on prison trends will be examined in greater detail.

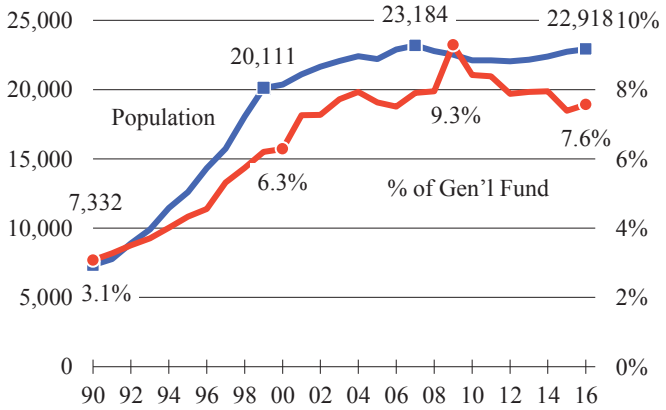
2008 to 2012: Numbers Decline

In 2008, the number of inmates actually dropped 1.8% from the previous year, to 22,768. Between 2008 and 2012, the population declined 3.2%, to 22,043.

Corrections spending also grew at the slowest pace in years, 0.7% over the four-year period, to $1.08 billion. In two of the years, 2010 and 2012, spending fell by at least 4% from the preceding year.

Although some hoped that declining inmate numbers would result in major savings, DOC officials noted that their operating costs are largely fixed. Significant cost reductions could only be achieved by closing a prison wing or an entire facility, a prospect they said was unlikely without large-scale declines in the inmate population.

Figure 2: Wis. Inmate Numbers, Costs Tick Up
Inmate Pop. (blue), % of Gen'l Fund Spending (red), 1990-2016



2013 to Present: Rising Again

The decline was short-lived as inmate numbers began to rise again in 2013. By the end of 2016, the population had increased to 22,918, or 3.4% in three years.

The proposed 2017-19 budget projects inmate growth of 1.8% in 2017, followed by a 0.4% decline, to a total population of 23,233 by mid-2019.

The budget requests a 2.6% spending increase for the biennium, yielding a total budget of about $1.1 billion in each of the next two years.

WHAT DRIVES INMATE POPULATION?

Three major factors are related to the renewed increase in prison population.

First, the violent crime rate has been steadily rising, even as the national rate declined. The majority of offenders in prisons are serving time for violent crimes (see Table 1, page 4), and more crime tends to result in more offenders going to prison.

Second, inmates are serving longer terms behind bars (see Figure 3, page 5). More inmates have more time to serve than they did a decade or two ago.

And finally, after a temporary decline, prison admissions are increasing. A significant portion of these are offenders who had been released from prison but returned for violating certain rules.

These last two elements appear related to the "truth in sentencing" (TIS) law.

"Truth in Sentencing": An Epochal Change

Truth in sentencing applies to offenses committed after December 31, 1999; most inmates now in Wisconsin's prisons were sentenced under the law.

It made significant changes to the way offenders are sentenced for felonies.

Old Law. Prior to truth in sentencing, Wisconsin inmates were eligible for parole, or supervised early release, after serving 25% of a sentence. Early releases were determined by the state Parole Commission, an independent agency that reviewed inmates' conduct in prison and determined whether and when they should be released early.

An offender who received parole would have to follow certain requirements, such as abstaining from drugs or alcohol, holding a job, or refraining from being with other convicted felons. An inmate who violated parole could be returned to prison (parole revoked) to serve the remainder of a sentence.

In addition to release on parole, which was discretionary, the sentencing law prior to TIS required that an inmate be released on parole after serving two-thirds of his or her sentence, providing there was no misconduct while in custody. This was known as the individual's mandatory release date.

Before TIS, for example, an offender sentenced to 12 years would be eligible for parole after serving three years in prison. If the offender did not violate any prison rules, he or she would automatically be released to the community on parole (presumptive mandatory release) after nine years. The former inmate would then serve three years on parole.

Critics argued the old law did not provide certainty as to how long an offender would actually remain behind bars. Truth in sentencing eliminated parole and required offenders to serve their full time in prison, plus a period of extended supervision similar to parole.

TIS Changes. Under TIS, judges impose a two-part sentence. The first part is a term of incarceration that an offender must serve in its entirety. The second part is that once an offender is out of prison, he or she must complete "extended supervision" equal to at least 25% of the prison term.

As with parole, an offender on extended supervision must comply with certain conditions, such as not drinking alcohol, being in the company of other offenders, or keeping a job. Violating these conditions can result in an offender being revoked and returned to prison.

However, unlike parole, where an inmate returned would serve only the time remaining on his total sen-

WISCONSIN IN

Who are Wisconsin's inmates? A point-in-time glimpse offers a profile of the state's prison population and how it has changed over the past 10 years or more.

Violent Offenders. Although there is a popular perception that prisons are filled with non-violent drug offenders, that does not appear to be the case in Wisconsin.

The share of inmates whose most serious offense is a violent crime (such as murder, rape, or robbery) rose from 59.4% in 2006 to 67.4% in 2016, while the share of drug offenses has declined, from 14.9% in 2006 to 10.3% in 2016 (see Table 1).

Inmates incarcerated for property offenses (such as burglary or theft) also dropped, from 17.7% to 13.4%, while public order offenses, which include drunken driving, rose from 8.0% to 8.8%.

This coincides with enactment of increased penalties for repeat drunken driving that, in some cases, imposed new mandatory minimum prison sentences or lengthened terms.

Drug, Sex, and OWI Offenses. Although it may not be the most serious offense for which an inmate is incarcerated, roughly one in five currently serving time has also been convicted of at least one drug charge (20.4%); one-fourth have a sex offense (24.7%); and nearly one in 10 have an OWI offense (8.7%.). In 2006, more had drug offenses (22.4%), but fewer had sex (22.1%) or OWI charges (7.0%).

Sex. Men comprise 93.7% of inmates, a share that has remained relatively constant over the past decade. It is down slightly from its peak in 1991, when men comprised 95.6% of inmates.

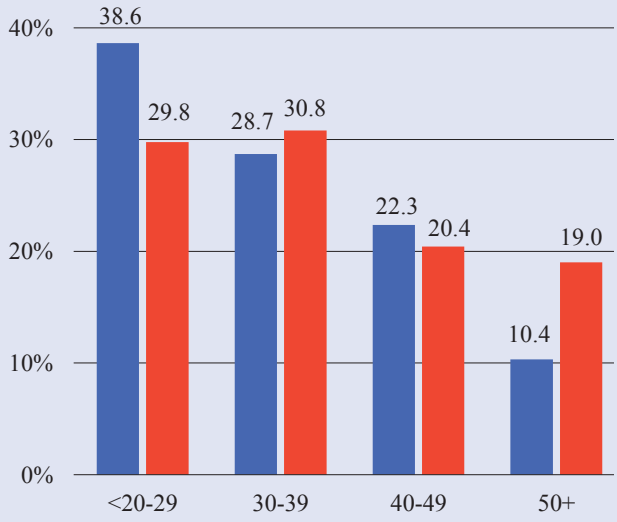
Table 1: Most Inmates in for Violence
Most Serious Offense, by Pop. and %, 2006 vs. 2016

Offense	2006	% of Pop.	2016	% of Pop.
Violent	13,235	59.4%	14,248	67.4%
Property	3,941	17.7	2,833	13.4
Drug	3,328	14.9	2,184	10.3
Pub. Order	1,782	8.0	1,866	8.8
Total	22,286	100.0	21,131	100.0

IMATES IN 2016

Age. Older inmates make up a larger share of the population than they did a decade ago, with the largest increases among those over 50 and those ages 30 to 39 (see Figure 3). The share of inmates under 30 years old, typically the largest group, declined from 38.6% in 2006 to 29.8% in 2016. Meanwhile the share of inmates 50 or older nearly doubled, from 10.4% to 19.0%, and those ages 30 to 39 rose from 28.7% to 30.8%.

Figure 3: Wisconsin Inmates Grow Older
% of Population, 2006 (blue) vs. 2016 (red)



Race and Ethnicity. The prisons' racial and ethnic composition has changed over time. From 1990 to 2000, the share of African American inmates grew from 38.6% to 46.8%, and declined to 42.6% by 2010. The proportion has continued to decline, to 41.2% in 2016.

Meanwhile, white inmates fell from 55.0% of the population in 2000 to 49.2% in 2000, before rising to 52.9% in 2010 and remaining near 54% in subsequent years.

The Native American population rose slightly over the past two and a half decades, from 2.9% in 1990 to 3.9% in 2016; Asian Americans increased from 0.2% to 1.1%.

For ethnicity, 5.3% identified as Hispanic or Latino in 1990, compared to 8.7% in 2016. Nearly three out of five (57.5%) did not report ethnicity in 2016.

tence, an offender under truth in sentencing could be returned for the entire period of extended supervision. TIS gives no credit for "street time" when an offender has not violated any conditions.

Using the previous example of an offender sentenced to 12 years in prison, under TIS he or she would serve all 12 years in prison, plus at least three years under extended supervision.

If the offender were to violate the conditions of extended supervision after, for example, two years of release, he or she could be returned to prison for the entire three years, not just the remaining one year.

Violent Crimes, Longer Sentences

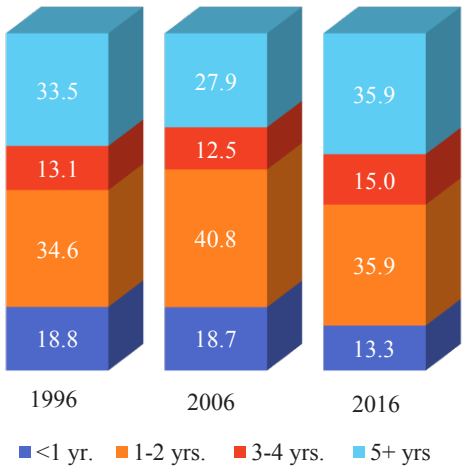
Although some anecdotal evidence suggests judges have reduced offenders' prison terms to reflect the determinate nature of truth in sentencing, statistics show that Wisconsin inmates are still generally spending more time behind bars than they were 10 or 20 years ago (see Figure 4).

In 2016, more than a third of inmates (35.9%) had five or more years left to serve, compared to 27.9% in 2006 and 33.5% in 1996. At the opposite end of the spectrum, those with less than a year to serve declined from 18.8% in 1996 to 13.3% in 2016.

This may be due to several factors. First, more inmates are in prison for violent crimes, which tend to result in longer sentences, than in previous decades.

In other cases, the state has increased penalties for certain offenses, such as new or longer mandatory minimum sentences for drunken driving. The share of

Figure 4: Inmates Serving Longer Time
Years Remaining on Sentence, by Percent 1996-2016



inmates serving time for these "public order" crimes has increased from 5.1% in 2000 to 8.8% in 2016.

Additionally, there are signs that judges may be "stacking" sentences to run consecutively, rather than concurrently, which leave inmates incarcerated longer.

Longer periods of extended supervision after release from prison may also be having an impact. In general, the longer an inmate is under supervision, the greater the possibility that he or she may violate the rules and be returned to prison. Inmates revoked under TIS can return to prison to serve their entire term of extended supervision with no credit for "street time," thereby lengthening their stays.

This trend coincides with an increase in prison admissions due to revocations.

Changes in Admissions, Releases

In addition to the length of sentences, the prison population is influenced by two other factors: admissions and releases.

Population growth in the 1990s was dominated by a rapid increase in admissions (see Figure 5, red bars) and a slowing in releases (Figure 5, blue bars). In the late 1990s and into the following decade, there were attempts to stabilize growth through various early-release policies. Ultimately, these programs were abandoned in favor of truth in sentencing.

The slowing of inmate growth in succeeding decades was due primarily to a decline in admissions. In the past few years, however, admissions increased while releases declined slightly, triggering a new rise in prison population. Each of these trends will be examined.

Figure 5: Admissions, Releases Affect Prison Population
Admissions (red) vs. Releases (blue) 1990-2016

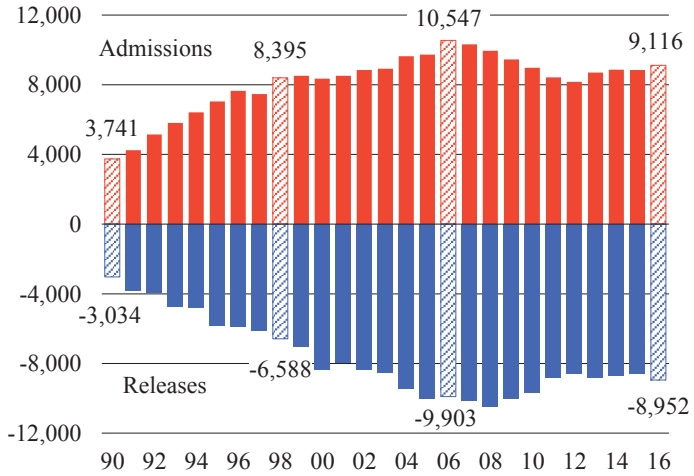
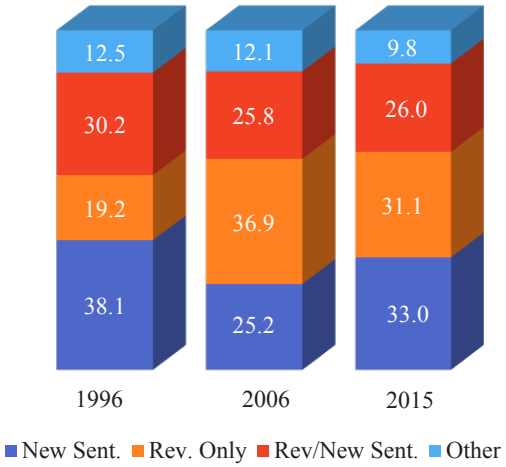


Figure 6: Revocations Dominate Admissions
% of Admissions, 1996-2015



Inmates entering prison fall into three major categories: those newly sentenced; those who were in the community, but were revoked for violating the conditions of their release; and those who were on release in the community and committed new crimes.

New Sentences. As a share of admissions, newly sentenced inmates have been declining since 1990, when they accounted for nearly half (46.8%) of admissions. That share declined to almost four in ten by 1996 (38.1%, see Figure 6) before dropping to about one in four (25.2%) in 2006. In the past decade, it has gradually increased to about one in three (33.0%) in 2015, the last year for which complete numbers are available.

Revocations. At the same time, the share of inmates returning to prison solely on revocations has generally increased in the past two and a half decades. In 1990, revocations accounted for one in five (21.9%) new inmates; by 1996, it declined to 19.2%. In 2006, the share had nearly doubled, to 36.9%, before returning to almost one-third (31.1%) in 2015.

DOC reports that in 2015, 78.5% of these revocation-only admissions were for criminal behaviors that did not result in new charges. The remaining 21.5% were revoked for other violations, such as absconding, or failing to appear at DOC meetings; using alcohol; contacting victims; or disobeying alternatives-to-revocation program rules.

Revocations/New Sentences. The third group of prison admissions includes inmates who had been released under extended supervision, but who committed new offenses that led to new convictions and

sentences. These inmates have consistently comprised about a quarter of admissions (26.0% in 2015).

Sentence lengths. The length of time new admissions serve has shifted according to type of offense. In general, violent offenders who entered in 2016 can expect to serve less time than in 2000 (37.2% for five years or more in 2016, compared to 45.5% in 2000). Those facing from one to five years of confinement, meanwhile, rose from 46.7% to 55.2% .

The trend applies to inmates entering on property offenses. In 2000, 78.6% were facing one to five years of confinement; in 2016, this share dropped to 71.6%. By comparison, those estimated to serve less than a year rose from 12.1% of new admissions in 2000 to 20.2% in 2016.

For both drug and public-order offenses, such as OWIs, the trend appears to be moving toward longer terms of incarceration, however. In 2000, 18.1% of drug offenders were expected to serve a year or less, compared to 10.5% in 2016. Those with the longest terms—five years or more—rose from 11.6% to 14.4% of admissions during the same period. The share of public-order offenders serving two to five years rising from 27.6% in 2000 to 35.9% in 2016.

Releases. Inmate releases have tended to mirror the trends in both overall inmate populations and admissions (see Figure 5, page 6).

Truth in sentencing abolished parole for offenses committed since 2000, so only a few inmates remain eligible. Releases on discretionary parole have slowed in recent years; instead, inmates are usually paroled upon reaching mandatory release.

A 2003 modification to TIS allows inmates to petition the sentencing judge for early release after serving at least 75% of the prison term. However, few petitions are granted, as the law gives prosecutors and victims unilateral authority to veto releases.

PRISONS AND POLICY

Wisconsin's recent prison history is reflected in per capita incarceration (see Table 2). Wisconsin's rank among the five upper Midwest states moved from second lowest in 1995 to second highest in both 2000 and 2005. It then declined to third highest in 2010 and second highest in 2015.

Rising admissions and a growing number of aging inmates carry long-term budget consequences. Medical care and related services for the elderly are expensive, even more so in a secure institution.

Table 2: Per Capita Incarceration Rises
Per 100,000 Residents, Wis. vs. U.S., 1995-2015

	1995	2000	2005	2010	2015
Illinois	317	371	351	373	360
Iowa	207	276	294	309	281
Michigan	429	480	489	445	429
Minnesota	105	128	180	185	196
Wisconsin	201	376	380	366	377
Midwest	310	371	383	389	na
U.S.	378	432	491	439	458

As Wisconsin experienced in the 1990s, the cost of rising prison populations tends to crowd out other non-prison expenditures.

In the late 1990s and early 2000s, the state undertook efforts to reduce the population by offering early release through programs such as intensive sanctions. After a few high-profile failures, however, the program was shelved and, for the most part, the truth in sentencing regimen of incarceration followed by extended supervision remains.

Lately, however, there is growing consensus among lawmakers on the need to reduce incarceration. Programs to divert high-risk, nonviolent drug offenders from prison have bipartisan support, as do efforts to apply evidence-based decision-making to criminal justice. Some lawmakers have also shown interest in programs to allow inmates to earn their early release.

Public attention has also focused on the effect of revocations on rising admissions and the need for potential changes. Some have proposed more uniform standards in determining revocations, which are now decided by administrative law judges, or for shortening periods of extended supervision.

On the other hand, some of the same impulses that drove the previous population increase remain. In every legislative session, there are proposals to increase penalties and lengthen sentences for certain crimes. Often these bills are responding to high-profile crimes or public pressure.

Which of these policy directions prevails will likely determine whether the corrections population resumes its growth or continues to decline. □

DATA SOURCES

U.S. Federal Bureau of Investigation, U.S. Office of Justice Programs. Wisconsin Departments of Administration, Corrections, and Justice; Wisconsin Legislative Council, Legislative Fiscal Bureau, and Legislative Reference Bureau.

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WISTAX NOTES

■ **Lawmakers Pull Items from Budget Bill.** In its first action on the 2017-19 state budget, the Joint Committee on Finance removed 83 non-fiscal policy items proposed by Governor Scott Walker (R).

Among the items removed were proposals to: eliminate some publication requirements for public notices; centralize data services at a facility outside Madison; provide work release for inmates in county jails; impose a "sunset" for new tax credits, subtractions, and exemptions; repeal requirements for a minimum number of instructional hours for public schools; impose work requirements on housing voucher recipients; and allow University of Wisconsin students to opt out of paying allocable segregated fees for campus activities.

The action marked the most policy items removed from a governor's budget bill in at least 25 years. JCF co-chairs indicated that the proposals were best addressed as separate bills, which were being introduced, although they said some could still be restored to the budget in subsequent action.

The budget has increasingly become a vehicle used by both governors and lawmakers to roll in policy initiatives that might not pass individually. In recent years, budget bills have included proposals to revise the University of Wisconsin's statutory charter, rewrite the state's open records law, and permit bail bondsmen.

■ **Transportation Budget Starts from Scratch.** The JCF co-chairs also said they will work from the Department of Transportation's current budget—and not the governor's proposal—in shaping the transportation budget for the next two years. The move reflects the ongoing debate over transportation funding and expenditures.

The governor proposed $500 million in borrowing, delays in some major road projects, and aid increases for local governments. Some lawmakers raised concerns about the level of borrowing, as well as the governor's spending priorities.

■ **School Referenda Move Ahead.** Voters in 28 school districts approved 40 referenda on April 4. Of the 40, 16 authorized districts to borrow a total of $464.7 million for building projects.

In nine districts, voters rejected 13 other borrowing questions totaling $220.7 million. In 2016, voters approved $1.35 billion in school district borrowing.

The remaining 24 referenda permit districts to exceed state-imposed revenue limits. Twelve revenue-cap referenda were rejected by voters.

■ **Other Referenda of Note.** La Crosse County voters approved an advisory referendum to impose a 0.5 percent Premier Resort Area Tax in addition to the 0.5 percent county sales tax. State law must be changed before the tax can be imposed.

Milwaukee County voters rejected an advisory referendum to raise the annual county "wheel tax" to $60, double the amount enacted last year. □

In FOCUS . . . recently in our biweekly newsletter

- As transportation finance problem languishes, ironies emerge (#5-17)
- 'Tis the (other) season: Wisconsin income tax has surprises (#6-17)