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WISCONSIN LEGISLATIVE COUNCIL
REPORT NO. 7 TO THE 1989 LEGISLATURE

LEGISLATION ON SURCHARGES ON FINES AND FORFEITURES

1989 SENATE JOINT RESOLUTION 34, RELATING TO AMENDING THE WISCONSIN
CONSTITUTION REGARDING THE USE OF PROCEEDS
FROM FINES AND FORFEITURES

1989 SENATE BILL 193, RELATING TO STATUTORY SURCHARGES ON PERSONS
CONVICTED OF CIVIL AND CRIMINAL OFFENSES AND
LOANS FROM THE VARIOUS TRUST FUNDS

Legislative Council Staff
June 15, 1989

RL 89-7

State Capitol
Madison, Wisconsin

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s. 13.81, Stats.

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Attorney; and Lisa Struble, Administrative Staff.

- (1) Appointed to replace Ruth Bachman, who resigned from the Committee, by a September 29,
1988 mail ballot.

WISCONSIN LEGISLATIVE COUNCIL
REPORT NO. 7 TO THE 1989 LEGISLATURE*

LEGISLATION ON SURCHARGES ON FINES AND FORFEITURES

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*Prepared by: Dan Fernbach and Gordon A. Anderson, Senior Staff Attorneys,
Legislative Council Staff.

PART I

KEY PROVISIONS OF LEGISLATION

A. 1989 SENATE JOINT RESOLUTION 34, RELATING TO AMENDING THE WISCONSIN CONSTITUTION REGARDING THE USE OF PROCEEDS FROM FINES AND FORFEITURES

1. Repeals constitutional provisions requiring proceeds from fines and forfeitures for breach of state penal laws to be deposited in the school fund.

2. Adds a constitutional requirement that proceeds from fines and forfeitures shall be used for programs for drug abuse, law enforcement, offenders and victims and witnesses of crimes.

B. 1989 SENATE BILL 193, RELATING TO STATUTORY SURCHARGES ON PERSONS CONVICTED OF CIVIL AND CRIMINAL OFFENSES AND LOANS FROM THE VARIOUS TRUST FUNDS

1. Loans from the Various Trust Funds

a. Provides for exclusive use by school districts of loans from the principal of the common school fund.

b. Gives school districts priority over other municipalities for loans from the normal school fund, university fund and agricultural college fund.

2. Changes in Existing Surcharges

a. Repeals the restitution cost surcharge authorized under s. 973.06 (1) (g), Stats.

b. Lists the specific crimes, and conforming municipal ordinances, to which the domestic abuse surcharge applies, clarifies the requisite relationship between the offender and the victim and makes the assessment contingent upon conviction rather than imposition of a fine.

c. Clarifies that only "private, nonprofit" organizations are eligible to receive a crime prevention organization contribution assessed under s. 973.09 (1x), Stats.

3. Surcharge Collection and Administration

a. Creates new s. 814.615, Stats., which, among other things, cross-references all of the statutory surcharges and assessments on fines and forfeitures which have been enacted to date.

b. Establishes a uniform effective date of January 1 for the imposition of all new and amended surcharges. [The effective date can be delayed, if surcharges are enacted too late in the year to be implemented on January 1.]

c. Sets forth the order of payment to be followed in all instances when statutory surcharges are paid in instalments.

d. Provides judicial discretion to waive, modify or limit the imposition of any surcharge for specified reasons.

e. Establishes new statutory requirements for counties and municipalities to report surcharge revenues to the state.

f. Requires the State Treasurer to submit an annual report of surcharge revenue collections to the Legislature and the Director of State Courts.

g. Requires an additional fiscal estimate to be prepared by the Director of State Courts on bills proposing new surcharges or amending existing surcharges.

PART II

COMMITTEE ACTIVITY

A. ASSIGNMENT

The Legislative Council established the Special Committee on Surcharges on Fines and Forfeitures by a May 25, 1988 mail ballot. The Special Committee was directed to:

...undertake a comprehensive review of the surcharges imposed on individuals convicted of violating civil or criminal statutes, including an examination of: (a) the appropriateness of surcharges as part of the overall system of penalties and offender rehabilitation; (b) the appropriateness of using the surcharges as revenue sources for the programs funded by the surcharges; and (c) the complexities of collecting and accounting for surcharges at the state level and at the local level, including the impact on clerks of court, law enforcement officers and others.

The members, appointed by July 1 and July 20, 1988 mail ballots, consisted of two Senators, three Representatives and nine Public Members.

B. SUMMARY OF MEETINGS

The Special Committee held five meetings at the State Capitol, in Madison, on the following dates:

September 20, 1988
October 18, 1988
November 15, 1988

December 13, 1988
January 17, 1989

At the September 20, 1988 meeting, the Committee reviewed a Council Staff paper on surcharges on fines and forfeitures. The paper provided information on the history of surcharges, background information on the distinction between fines and forfeitures and other types of monetary payments imposed on persons convicted in criminal and state forfeiture actions. The paper described the imposition and collection of surcharges on fines and forfeitures. The paper also provided detailed information on each of the surcharges, including a description of state and local programs and activities financed by the surcharges and information on amounts collected and expended from various surcharges.

The Special Committee also heard a presentation by J. Denis Moran, Director of State Courts, regarding the problems that have arisen due to the piecemeal enactment of the statutory surcharges and other monetary assessments against offenders. Mr. Moran described problems relating to collection and accounting for surcharges and to notification of law enforcement officers, clerks and judges of new surcharges or changes in surcharges.

The Committee also held a discussion of its assignment and reviewed a variety of issues relating to collection and administration of surcharges.

At the October 18, 1988 meeting, the Committee reviewed a paper, presented by Legislative Fiscal Bureau staff, that presented estimates of revenues made at the time various surcharges were created and compared those estimates with actual receipts from the surcharges. The Committee also reviewed a paper prepared by Council Staff on the Wisconsin school fund. The paper described constitutional provisions relating to the school fund, the use of the earnings of the school fund and the use the principal of the fund.

The Council Staff also described a paper regarding circuit court and municipal court caseload statistics and a paper which summarized issues and problems relating to surcharges. The Committee discussed issues relating to:

1. Reimbursement of counties and municipalities for administrative costs in collecting and handling surcharge revenues;
2. Establishment of a single section in the statutes where all statutory surcharges would be cross-referenced;
3. Amendment of the Wisconsin Constitution to permit fine and forfeiture revenues to be used for purposes other than support of public schools;
4. Recommendation of the repeal of vague, unnecessary or overly burdensome surcharges;
5. Recommendation of limiting the scope of surcharges that may have an inappropriate impact on certain classes of offenders, such as low-income persons;
6. Placement of a cap on the total amount of surcharges imposed on a single offender; and
7. Establishment of a mandatory system of accounting for and reporting of surcharges collected.

At the November 15, 1988 meeting, Legislative Fiscal Bureau staff presented a paper on total financial penalties assessed for various violations of state laws and local ordinances. The paper set forth minimum and maximum fines or forfeitures for underlying offenses, as well as applicable surcharges and court costs for certain municipal ordinance violations and state traffic offenses, domestic abuse and other criminal offenses.

The Committee reviewed a staff paper which presented options for Committee consideration relating to the collection and administration of surcharges. The Committee discussed:

1. Administrative problems regarding collection of surcharges;
2. How best to notify law enforcement, courts and clerks of changes in surcharges;
3. To whom and how the domestic abuse surcharge is applied;
4. To whom and how the jail assessment is applied and whether the jail assessment should be repealed;
5. Imposition of a statutory cap on surcharges or giving judges the authority to limit, waive or modify the amount of surcharges in the interests of justice or to avoid financial hardship to the offender or his or her dependents;
6. Definition of the organizations that should be eligible for crime prevention organization contributions;
7. Improvement in procedures for reporting revenues from surcharges; and
8. Creation of a statutory cross-reference to all the statutory surcharges on fines and forfeitures.

At the December 13, 1988 meeting, the Committee reviewed:

1. A bill draft relating to statutory surcharges on persons convicted of civil and criminal offenses;
2. A draft of a letter to Attorney General Donald J. Hanaway regarding use of the Law Enforcement Bulletin for informing law enforcement officers of changes in surcharges;
3. A draft Policy Statement relating to surcharges; and

4. A staff paper that presented information on the Wisconsin Common School Fund and options for Committee consideration.

At the meeting, the Committee voted to repeal the jail assessment and the restitution cost surcharge. The Committee concluded that the imposition of the restitution cost surcharge was unnecessary. It also concluded that the jail assessment resulted in revenues for counties that had no planned or pending jail improvements. Also, the jail assessment, as approved by the Legislature, was to remain in effect only until September 1, 1988 to provide "seed money" for counties that intended to improve their jails. The partial veto by the Governor made the jail assessment permanent. The Committee concluded that the application of the jail assessment, even to an ordinance violation for which a person could not be sent to jail, made the jail assessment too broad to continue on a permanent basis.

The Committee also approved sending a letter to Attorney General Donald J. Hanaway regarding responsibility for informing law enforcement agencies of surcharge changes. The Committee directed staff to redraft the Policy Statement to include changes made in the Statement by the Committee at the meeting.

The Committee reviewed options for the use of revenues from fines and forfeitures and discussed possible amendments to the Wisconsin Constitution. The Committee directed staff to prepare a draft to amend the Wisconsin Constitution to permit the Legislature to provide by law for use of the proceeds of fines and forfeitures for law enforcement-related programs and programs for victims, witnesses and offenders.

The Committee also directed staff to prepare a draft to amend the statutes to provide that school districts would be granted exclusive use of the money in the common school fund and would have priority for loans from funds in the other three state trust funds under the control of the Board of Commissioners of Public Lands.

At the January 17, 1989 meeting, the Committee reviewed and approved three drafts prepared by staff relating to:

1. Collecting and administering surcharges;
2. Amending the Wisconsin Constitution to permit the use of proceeds from fines and forfeitures for programs relating to law enforcement, drug abuse, victims and witnesses of crimes and offenders; and
3. Limiting the use of the principal of the Common School Fund for loans to school districts and giving priority to school districts for loans from the other trust funds.

The Committee reviewed a staff paper on options relating to legislative oversight of new surcharges. The Committee directed staff to prepare a draft of legislation to implement one of the options in the paper relating to a new fiscal estimate requirement for bills relating to new surcharges and assessments. The Co-Chairpersons directed staff to prepare the draft for approval by a mail ballot. The Committee subsequently approved the draft by a mail ballot.

Finally, the Committee reviewed and approved a Policy Statement regarding its legislative recommendations, as well as recommendations on the future use of surcharges and revenues therefrom, to be submitted to the Legislative Council as part of its final report.

C. COMMITTEE AND COUNCIL VOTES

1. 1989 Senate Joint Resolution 34

At its meeting on January 17, 1989, the Special Committee on Surcharges on Fines and Forfeitures recommended that the Legislative Council introduce WLCS: 500/2 (the draft which became 1989 Senate Joint Resolution 34), by a vote of Ayes, 9 (Sens. Ulichny and George; and Public Members Fullin, Horne, Kolanda, Laudon, McIntyre, Smith and Steingraber); Noes, 3 (Reps. Farrow and Medinger; and Public Member Fokakis); and Absent, 2 (Rep. Tesmer; and Public Member Steingass).

At its March 15, 1989 meeting, the Legislative Council voted to introduce the draft, by a vote of Ayes, 15 (Sens. Risser, Czarnecki, Davis, George, Helbach, Kreul, Moen and Strohl; and Reps. Loftus, Clarenbach, M. Coggs, Gruszynski, Hauke, Kunicki and Panzer); Noes, 4 (Sens. Ellis; and Reps. Prosser, Tregoning and Zien); and Absent, 2 (Sen. Engeleiter; and Rep. Tesmer).

2. 1989 Senate Bill 193

1989 Senate Bill 193 is a combination of three bill drafts (WLCS: 495/1; WLCS: 449/3; and WLCS: 516/1) which were separately approved by the Special Committee on Surcharges on Fines and Forfeitures. These drafts were subsequently combined into one bill draft, WLCS: 557/1, for recommendation to the Legislative Council. The vote of the Special Committee on each of the three drafts is given below.

a. WLCS: 495/1, relating to loans to school districts and municipalities from the various school funds, was approved at the January 17, 1989 meeting of the Special Committee, by a vote of Ayes, 10 (Sens. Ulichny and George; Rep. Medinger; and Public Members Fokakis, Fullin,

Horne, Kolanda, Laudon, McIntyre and Smith); Noes, 2 (Rep. Farrow; and Public Member Steingraber); and Absent, 2 (Rep. Tesmer; and Public Member Steingass).

b. WLCS: 449/3, relating to statutory surcharges on persons convicted of civil and criminal offenses, was approved at the January 17, 1989 meeting of the Special Committee, by a vote of Ayes, 7 (Sens. Ulichny and George; and Public Members Fullin, Horne, Kolanda, Laudon and Steingraber); Noes, 3 (Reps. Medinger and Farrow; and Public Member McIntyre); Absent, 2 (Rep. Tesmer; and Public Member Steingass); and Not Voting, 2 (Public Members Fokakis and Smith).

c. WLCS: 516/1, relating to fiscal estimates on bills containing surcharges and assessments, was approved by a January 24, 1989 mail ballot, by a vote of Ayes, 14 (Sens. Ulichny and George; Reps. Medinger, Farrow and Tesmer; and Public Members Fokakis, Fullin, Horne, Kolanda, Laudon, McIntyre, Smith, Steingass and Steingraber); and Noes, 0.

At its March 15, 1989 meeting, the Legislative Council voted to amend WLCS: 557/1 to delete the provisions which repealed the jail assessment imposed under s. 53.46, Stats., by a vote of Ayes, 11 (Sens. Czarnecki, Davis, Ellis, Kreul, Moen and Strohl; and Reps. Kunicki, Panzer, Prosser, Tregoning and Zien); Noes, 7 (Sens. Risser and George; and Reps. Loftus, Clarenbach, M. Coggs, Gruszynski and Hauke); and Absent, 3 (Sens. Engeleiter and Helbach; and Rep. Tesmer).

The Legislative Council then voted to introduce WLCS: 557/1, as amended (which became 1989 Senate Bill 193), by a vote of Ayes, 18 (Sens. Risser, Czarnecki, Davis, Ellis, George, Kreul, Moen and Strohl; and Reps. Loftus, Clarenbach, M. Coggs, Gruszynski, Hauke, Kunicki, Panzer, Prosser, Tregoning and Zien); Noes, 0; and Absent, 3 (Sens. Engeleiter and Helbach; and Rep. Tesmer).

3. Other Recommendations

At its meeting on January 17, 1989, the Special Committee on Surcharges on Fines and Forfeitures adopted a Policy Statement on the use of statutory surcharges, discussed in Part V of this Report, on a vote of Ayes, 11 (Sens. Ulichny and George; Rep. Farrow; and Public Members Fokakis, Fullin, Horne, Kolanda, Laudon, McIntyre, Smith and Steingraber); Noes, 1 (Rep. Medinger); and Absent, 2 (Rep. Tesmer; and Public Member Steingass).

D. STAFF MATERIALS

Appendix 2 lists all materials received by the Special Committee. The following documents, prepared by the staffs of the Legislative Council and the Legislative Fiscal Bureau, may be of particular interest. These and other materials listed in Appendix 2 are available at the Legislative Council offices.

1. Staff Brief 88-14, by Legislative Council Staff, Statutory Surcharges on Fines and Forfeitures, dated September 19, 1988, provides background information on the 12 statutory surcharges on fines and forfeitures in Wisconsin and describes the various state and local programs funded by surcharge revenues.

2. MEMO NO. 1, by Legislative Council Staff, Summary of Issues and Problems Relating to Surcharges, dated October 11, 1988, summarizes the various issues and problems relating to surcharges identified by members of the Special Committee at their initial meeting, held on September 20, 1988.

3. MEMO NO. 4, by Legislative Council Staff, Options for Committee Consideration Relating to the Collection and Administration of Surcharges, dated November 8, 1988, summarizes various options for changing the manner in which surcharges are collected and administered.

4. MEMO NO. 5, by Legislative Council Staff, Information on the Wisconsin School Fund and Options for Special Committee Consideration, dated November 8, 1988, provides historical background relating to the use of the principal of the Wisconsin Common School Fund and reviews several options for constitutional and statutory changes affecting the school fund.

5. Memorandum, by Legislative Fiscal Bureau, Examples of Total Financial Penalties Assessed for Various Violations of State Laws and Local Ordinances, dated November 8, 1988, provides several illustrations of the impact of surcharges on the total monetary amount an offender may be required to pay for a violation of a state law or municipal ordinance.

PART III

DESCRIPTION OF 1989 SENATE JOINT RESOLUTION 34

A. BACKGROUND

Article X, section 2, of the Wisconsin Constitution, requires that the "clear proceeds" of all fines and forfeitures collected by the counties for any breach of state penal laws must be deposited in the state's common school fund. The courts have interpreted this provision of the Constitution to prohibit the use of state revenues from statutory fines and forfeitures for any purpose other than the operation of Wisconsin's public schools. [See State ex rel. Commissioners of Public Lands v. Anderson, 56 Wis. 2d 666, 203 N.W. 2d 84 (1973), and Trustees of Village of Platteville v. Bell, 43 Wis. 488 (1878).]

Article X, section 5, of the Wisconsin Constitution, provides that the income of the school fund is to be distributed among towns and cities in the state for the support of common schools in proportion to the number of children and youth between the ages of four and 20 years.

Finally, art. X, s. 7, Wis. Const., provides that the Secretary of State, State Treasurer and Attorney General constitute a board of commissioners for the sale of school lands and university lands and for the investment of the funds from the sale of such land. The board is known as "the Board of Commissioners of Public Lands."

Under current statutes:

1. All moneys accruing to the state under art. X, s. 2, Wis. Const., and all other moneys paid into the State Treasury on account of the capital of the school fund, constitutes the school fund which is statutorily designated as a "common school fund" [s. 24.76, Stats.].

2. The common school fund income is the interest derived from the common school fund and unpaid balances and other revenues from common school lands [s. 24.77, Stats.].

3. The common school fund income shall be distributed to school districts for the support of common schools [s. 24.78, Stats.].

The Special Committee's recommendation that the Legislative Council introduce 1989 Senate Joint Resolution 34 reflects the Committee's conclusion that it is appropriate to use the revenues, from fines and forfeitures that are imposed on offenders, for programs related to law enforcement. The current constitutional restriction prevents such use.

As a result, numerous surcharges have been created, which impose an administrative burden on courts, counties, municipalities and law enforcement agencies in assessing, collecting and accounting for surcharge revenues and transmitting the funds to the state. Enactment of the constitutional amendment and elimination of surcharges would reduce these burdens.

B. MAJOR PROVISIONS OF SENATE JOINT RESOLUTION 34

1989 Senate Joint Resolution 34 is an amendment to the Wisconsin Constitution, proposed on first consideration, which changes the use to be made of the proceeds of fines and forfeitures for any breach of the state penal laws. The Joint Resolution requires approval of the Legislature in both the 1989 and 1991 sessions and of the voters in a statewide general election in order to become effective.

The Joint Resolution proposes to delete from the Constitution the provision which requires all moneys and property forfeited to the state, and the clear proceeds of fines collected for the violation of state penal laws, to be deposited in the school fund.

Under the proposed amendment to the Constitution, the common school fund will continue to receive revenues from the sale of lands and unclaimed property and the earnings of the fund will continue to be distributed to schools.

Under the proposed amendment, the Legislature would be directed to develop legislation which could eliminate the use of surcharges by providing that the proceeds of fines and forfeitures would be used to fund programs related to drug abuse, law enforcement, victims and witnesses of crimes and offenders.

PART IV

DESCRIPTION OF 1989 SENATE BILL 193

A. BACKGROUND

1. Surcharges on Fines and Forfeitures

In partial reaction to the constitutional limitation on what use can be made of the proceeds from fines and forfeitures, surcharges on statutory fines and forfeitures have been used to generate revenue for specific state and local programs. The imposition of a statutory surcharge, either as a percentage of the regular fine or forfeiture or as a fixed amount, against a defendant was first enacted by the 1977 Legislature to provide revenues to fund state programs for training law enforcement officers. Including this enactment, since 1977, the following 12 surcharges have been enacted:

- a. Penalty assessment (1977) [s. 165.87 (2) (a), Stats.].
- b. Natural resources assessment (1979) [s. 29.997, Stats.].
- c. Natural resources restitution payment (1979) [s. 29.998, Stats.].
- d. Domestic abuse assessment (1980) [s. 973.055, Stats.].
- e. Restitution administrative surcharge (1980) [s. 973.20 (11) (a), Stats.].
- f. Driver improvement surcharge (1981) [s. 346.655, Stats.].
- g. Crime victim and witness assistance surcharge (1983) [s. 973.045 (1) (a), Stats.].
- h. Weapons assessment (1985) [s. 167.31 (5), Stats.].
- i. Jail assessment (1987) [s. 53.46 (1) (a), Stats.].
- j. Drug abuse program improvement surcharge (1988) [s. 161.41 (5), Stats.].
- k. Crime prevention organization contribution (1988) [s. 973.09 (1x), Stats.].
- l. Restitution cost (1988) [s. 973.06 (1) (f), Stats.].

TABLE 1
INFORMATION ON STATUTORY SURCHARGES ON FINES AND FORFEITURES

SURCHARGE	APPLIES TO	CURRENT PERCENTAGE OR AMOUNT	CURRENT DISPOSITION OF SURCHARGE	REVENUES DURING THE 1987-89 BIENNIUM	
				1987-88 1/	1988-89 2/
PENALTY ASSESSMENT	Fines or forfeitures for violation of any state law or county or municipal ordinance, except nonmoving traffic violations	20% of fine or forfeiture	Program revenue for law enforcement training in the Department of Justice (DOJ), 11%; correctional officer training in the Department of Health and Social Services (DHSS), 2%; alcohol and drug abuse programs in the Department of Public Instruction (DPI), 3%; matching funds for federally-funded state and local drug abuse programs, 3%; and Indian tribe-county cooperative law enforcement programs, 1%	\$7,679,815	\$7,950,000
NATURAL RESOURCES ASSESSMENT	Fines or forfeitures for violating statutes relating to fish and game	75% of fine or forfeiture	Program revenue for the Department of Natural Resources (DNR) to enforce natural resources statutes	\$395,001	\$395,000
NATURAL RESOURCES RESTITUTION PAYMENT	Fines or forfeitures for violating statutes relating to fish and game	Amount of statutory fee for license which should have been obtained	Program revenue for the DNR to enforce natural resources statutes	\$21,660	\$22,000
DOMESTIC ABUSE ASSESSMENT	Fines imposed for criminal conduct involving domestic abuse	\$50	Program revenue for the DHSS to make grants to organizations providing domestic abuse services	\$5,862	\$5,900
RESTITUTION ADMINISTRATIVE SURCHARGE	When the court orders restitution in criminal cases; as a condition of probation or parole	5% of total restitution, costs, attorney fees, fines and applicable surcharges imposed	Paid to clerk of circuit court or DHSS to defray administration costs of restitution program	\$185,369	\$195,000
DRIVER IMPROVEMENT SURCHARGE	Judgments in which a fine or forfeiture is imposed for offenses related to driving while intoxicated	\$250	Program revenue for the DHSS, Department of Transportation (DOT), DPI, DOJ and the University of Wisconsin (UW) System for various state programs related to driving while intoxicated; Department of Administration Secretary allocates funds among agencies	\$5,461,500	\$5,500,000
CRIME VICTIM AND WITNESS ASSISTANCE SURCHARGE	Each offense or count, if the court imposes a sentence or places the person on probation	Misdemeanor--\$30 Felony--\$50	Program revenue for the DOJ to fund services for victims and witnesses of crimes	\$773,806	\$800,000
WEAPONS ASSESSMENT	Fines or forfeitures for violations relating to the safe use and transportation of firearms and bows	75% of fine or forfeiture	Program revenue for the DNR to enforce natural resources statutes	\$38,776	\$39,000
JAIL ASSESSMENT	Fines or forfeitures for a violation of a state law or county or municipal ordinance, except nonmoving traffic violations	1% of fine or forfeiture, or \$10, whichever is greater	Retained by counties to construct, remodel, repair or improve county jails	3/	3/
DRUG ABUSE PROGRAM IMPROVEMENT SURCHARGE	Violations of s. 161.41, prohibiting the manufacture, delivery and possession of controlled substances	50% of fine and penalty assessment imposed	Program revenue for the DHSS to fund alcohol and other drug abuse programs	3/	3/
CRIME PREVENTION ORGANIZATION CONTRIBUTION	As a condition of probation; at the discretion of the court	Determined by court, based on financial ability to pay	Contributed to a crime prevention organization	3/	3/
RESTITUTION COST	When the court orders restitution in criminal cases; as a condition of probation or parole	10% of any restitution ordered	Paid to county treasurer for use by the county	3/	3/
TOTAL	--	--	--	\$14,561,789	\$14,906,900

1/ The amounts shown as revenues for fiscal year 1987-88 are preliminary.

2/ The estimates of fiscal year 1988-89 revenues are based on fiscal year 1987-88 revenues and on discussions with the affected agencies' staffs.

3/ Due to the recent enactment of this surcharge, no data is available on revenues from the surcharge.

SOURCE: Compiled by Legislative Council Staff from data provided by the Legislative Fiscal Bureau and the Departments of Administration, Health and Social Services, Justice, Natural Resources, Public Instruction and Transportation.

Table 1, Information on Statutory Surcharges on Fines and Forfeitures, shows for each of the 12 current surcharges, the fines and forfeitures to which the surcharges are applied, the current percentage or amount of the surcharge, the current disposition of the surcharge and the surcharge revenues during the 1987-89 biennium.

Table 1 shows that the eight surcharges for which data is available are estimated to have raised approximately \$14.6 million in 1987-88 and \$14.9 million in 1988-89. Data is not available on the other four surcharges, since they were enacted during the 1987-88 Session of the Legislature.

In contrast, the revenue to the Common School Fund from the fines and forfeitures on which the surcharges are imposed was approximately \$11.2 million in 1987-88 (data for 1988-89 was not available).

2. Trust Fund Loans

The Special Committee reviewed the loan activities of the Board of Commissioners of Public Lands authorized under subch. II of ch. 24 of the statutes. Under s. 24.61, the board may loan or invest moneys in trust funds under its control to: a school district; a town, village, city or county; a vocational, technical and adult education district; a public inland lake protection and rehabilitation district; a town sanitary district; a metropolitan sewerage district; a metropolitan sewerage system; and a joint sewerage system.

The loans to entities other than school districts may be for any purpose for which the entities may borrow or issue bonds. Current interest rates are 6.5% on loans for 10 years or less and 7.5% on loans for more than 10 years.

The four trust funds from which loans are made include the Normal School Fund, the Agricultural College Fund, the University Fund and the Common School Fund. On June 30, 1987, these funds had a combined balance of \$184,990,823, of which the Common School Fund contained \$168,566,626 or 91.1% of the total. The Common School Fund is the only fund which has substantial additions to principal each year. Thus, loans from the four trust funds will increasingly be made from the Common School Fund.

Table 2, Trust Fund Loan Activity for Fiscal Years 1970-71 to 1986-87, shows for 17 years, the number and amount of school loans, municipal loans and total loans made from the four funds.

TABLE 2
TRUST FUND LOAN ACTIVITY
FOR FISCAL YEARS 1970-71 TO 1986-87

FISCAL YEAR	SCHOOL LOANS		MUNICIPAL LOANS		TOTAL	
	NUMBER OF NEW LOANS	AMOUNT OF LOANS	NUMBER OF NEW LOANS	AMOUNT OF LOANS	NUMBER OF NEW LOANS	AMOUNT OF LOANS
1970-71	38	\$6,630,659	0	--	38	\$6,630,659
1971-72	39	\$6,808,978	4	\$81,000	43	\$6,889,978
1972-73	35	\$6,418,595	4	\$174,500	39	\$6,593,095
1973-74	55	\$11,166,500	5	\$586,000	60	\$11,752,500
1974-75	59	\$10,306,799	1	\$40,000	60	\$10,346,799
1975-76	42	\$9,372,017	1	\$103,500	43	\$9,475,517
1976-77	17	\$3,865,000	12	\$1,895,955	29	\$5,760,955
1977-78	31	\$10,573,000	33	\$4,790,459	64	\$15,363,459
1978-79	47	\$10,817,990	78	\$15,768,587	125	\$26,586,577
1979-80	55	\$6,571,824	72	\$6,615,792	127	\$13,187,616
1980-81	70	\$8,035,902	162	\$13,209,234	232	\$21,245,136
1981-82	36	\$4,698,064	121	\$14,056,812	157	\$18,754,876
1982-83	25	\$4,740,329	85	\$11,254,226	110	\$15,994,554
1983-84	48	\$10,267,465	116	\$18,202,738	164	\$28,470,203
1984-85	23	\$4,379,339	69	\$10,707,930	92	\$15,087,269
1985-86	21	\$4,371,130	131	\$20,265,451	152	\$24,636,580
1986-87	32	\$10,150,340	163	\$30,193,415	195	\$40,343,755
TOTAL	673	\$129,173,930	1,057	\$147,945,598	1,730	\$277,119,529

SOURCE: Annual Reports of the Board of Commissioners of Public Lands for fiscal years 1981-82 to 1986-87.

Table 2 shows that, during the 17-year period, the 673 loans made to school districts constituted 38.9% of the total number of loans (1,730) that were made during that time. However, during the 10 most recent fiscal years covered by the Table, school loans constituted only 27.4% of all loans made while, during the first seven years covered by the Table, school loans constituted 89.3% of all loans made.

During a six-year period ending on June 30, 1976, a total of 283 loans in a total amount of \$51,686,546 were made, of which only 15 (5.3%) in a total amount of \$985,000 (1.9%), were made to municipalities. In fiscal year 1977-78, the number, but not the amount, of loans to municipalities exceeded those to school districts. In subsequent years, the number and amount of loans to municipalities has exceeded school loans.

Another way of demonstrating the change in types of recipients of loans from the trust funds can be shown by noting that, on June 30, 1978, 253 school loans were outstanding in a total amount of approximately \$67.2 million. Also, 49 municipal loans were outstanding in a total amount of approximately \$7.3 million. Nine years later, on June 30, 1987, 233 school loans were outstanding in a total amount of approximately \$57.6 million (a reduction of 20 loans and approximately \$9.5 million in loans outstanding). However, the number of municipal loans outstanding had grown to 432 in an amount of approximately \$90.3 million (an increase of 383 loans and approximately \$83 million in loans outstanding).

Table 3, Uses of Loans to School Districts for Fiscal Year 1986-87, presents information on the uses of the 32 loans which were made to school districts during fiscal year 1986-87.

TABLE 3
USES OF LOANS TO SCHOOL DISTRICTS
FOR FISCAL YEAR 1986-87

PURPOSE	NUMBER OF LOANS	TOTAL AMOUNT	AVERAGE LOAN
Buildings	25	\$8,053,350	\$322,134
Vehicles and Equipment	2	\$1,056,000	\$528,000
Capital Improvement	2	\$400,990	\$200,495
Refinancing	2	\$600,000	\$300,000
Miscellaneous	1	\$40,000	\$40,000
TOTAL	32	\$10,150,340	\$317,198

SOURCE: Compiled by Legislative Council Staff from information contained in the Annual Report of the Board of Commissioners of Public Lands for the fiscal year ending June 30, 1987.

Table 3 shows that by far the largest number of loans, 25 of the 32 loans or 78%, were made for school buildings.

Table 4, Uses of Loans to Municipalities for Fiscal Year 1986-87, presents information on the uses of the 163 loans which were granted to municipalities during fiscal year 1986-87.

TABLE 4
USES OF LOANS TO MUNICIPALITIES
FOR FISCAL YEAR 1986-87

PURPOSE	NUMBER OF LOANS	TOTAL AMOUNT	AVERAGE LOAN
Sewage, Water Utility, Water Mains	36	\$9,464,858	\$262,913
Roads, Streets, Sidewalks	32	\$5,786,400	\$180,825
Buildings	29	\$4,121,139	\$142,108
Vehicles and Equipment	28	\$1,403,754	\$50,134
Refinancing of Debts	10	\$1,823,200	\$182,320
Landfills	6	\$1,992,634	\$332,106
Capital Improvements	5	\$558,202	\$111,640
Tax Incremental Financing/ Industrial Development	5	\$1,039,328	\$207,866
Land/Recreation	4	\$1,422,000	\$355,500
Miscellaneous	8	\$2,581,900	\$322,738
TOTAL	163	\$30,193,415	\$185,236

SOURCE: Compiled by Legislative Council Staff from information contained in the Annual Report of the Board of Commissioners of Public Lands for the fiscal year ending June 30, 1987.

Table 4 shows that loans for sewage, water utility and water mains constituted 36 of the 163 loans or 22.1%; 32 loans for roads, streets and sidewalks constituted 19.6% of the loans; the 29 loans for building purposes constituted 17.8% of the loans; and the 28 loans for vehicles and equipment constituted 17.2% of the loans. The 125 loans in these four categories accounted for 76.7% of the total number of loans to municipalities in 1986-87.

As reflected in its recommendations for legislation, the Special Committee concluded that the present statutory provisions permitting the use of the Common School Fund principal for loans to municipalities is inappropriate because: (a) it does not appear to be consistent with the purpose for which the school fund exists, which is to provide income for the "support and maintenance of the common schools"; and (b) of the increased needs of school districts, especially for building repairs and maintenance of aging school buildings.

The Committee also concluded that the greater need of school districts for loan funds for school buildings justifies giving priority to school districts over municipalities in obtaining loans from the other three trust funds.

B. ISSUES RELATING TO SURCHARGES

1. Administration at the Local Level

a. Deposit schedules, used to determine the applicable surcharges when persons are given citations or are arrested, are revised annually. Because surcharges contain a variety of effective dates, the deposit schedules are not always current.

b. There currently is no procedure for providing timely notification to court and law enforcement personnel when surcharges are created or changed.

c. There is no uniform effective date for the implementation of new or amended surcharges. As a result, court and law enforcement officials are not given adequate advance notice to undertake administrative procedures, such as notifying field personnel, modifying law enforcement citation forms and updating other forms related to surcharge collection.

d. Because some offenders are allowed to pay fines, forfeitures and surcharges in instalments, the clerk of court must assume the additional administrative duty of establishing individual offender accounts and allocating instalment payments to one or more applicable surcharges as payments are received.

e. If the Legislature increases the amount of a specific surcharge, there is likely to be a gap between the violation by and sentencing of an offender. A surcharge is imposed based on the amount in effect when the violation occurred. Because considerable time may elapse between the date of the violation and actual sentencing, offenders are frequently paying a surcharge amount which is not currently in effect, thus increasing the administrative burden on the court system.

f. Because surcharges have been enacted in a piecemeal manner over the past decade and are located in seven different chapters of the Wisconsin statutes, there is no single place in the statutes where all of the surcharges can be found. As a result, attorneys and court and law enforcement officers who must assess the surcharges find it difficult to determine which surcharges apply in specific cases.

g. The large number of surcharges enacted since 1977 has created a complex and burdensome administrative situation for law enforcement personnel, prosecutors and the courts. If any additional surcharges are enacted in the future, the current system for collecting and administering surcharges could become so difficult to systematically and routinely administer that the use of surcharges would be jeopardized as a viable funding method for important state and local programs.

h. Clerks of court must devote a substantial amount of time to collecting and accounting for surcharge revenues.

2. Administration and Oversight at the State Level

a. Estimating the revenues that may be derived from new or increased surcharges is difficult due to incomplete reporting by counties and municipalities on the amount of fines and forfeitures imposed and collected in the state and on revenues from surcharges.

b. Because surcharges are used to fund specific state and local programs, rather than general purpose tax dollars, these programs may receive less legislative scrutiny than programs funded from tax revenues.

c. Where programs are funded in whole or in part by surcharge revenues, it is difficult to engage in long-range planning due to the potential instability of the source of funding. Programs funded by surcharges may be forced to be discontinued if surcharge revenues, or the local government share of funding derived from surcharge revenues, become inadequate.

3. Local Law Enforcement

a. The amount of applicable surcharges in traffic cases can exceed the amount of the underlying fine or forfeiture; the time required to complete and explain the citation form may divert law enforcement personnel from productive work.

b. Of the 12 statutory surcharges imposed under current law, only two, the penalty assessment and the jail assessment, generate revenues for programs that directly benefit the law enforcement community. Law enforcement officers object to being part of a revenue generating system that has minimal impact on or benefit to enforcement.

4. Impact on Offenders

a. Surcharges are imposed in many instances against people who are unable to pay the surcharge. Because state law authorizes jail terms for offenders who fail to pay monetary penalties, surcharges may have a relatively harsher impact on offenders from lower economic backgrounds.

b. In some cases, after amounts for the various surcharges are first deducted according to law, no money remains to apply towards payment of the underlying fine; forfeiture or restitution payments to the victims. Fines and restitution orders are intended to punish the offender and to compensate the victim. If surcharges to fund programs are collected first and the offender does not have the money to pay the fine or restitution order, the reasons for their imposition are thwarted. Thus, the policy objectives for imposition of the fine or forfeiture and restitution are frustrated.

c. The impact of the jail assessment is felt by many to be unfair and overly broad, because it is assessed against violators who have committed offenses that do not subject them to possible incarceration. Further, the broad scope of the jail assessment may result in a windfall for counties who, by law, are permitted to retain the revenues, even though future jail construction or remodeling may never take place.

C. ISSUES RELATING TO TRUST FUND LOANS

1. School districts have an increased need for funds to repair and replace aging school facilities but municipalities, especially during the most recent 10 fiscal years, have received the greatest share of the funds.

2. The Common School Fund constitutes the largest source of funds for loans; it appears to be inconsistent with the purposes of the Common School Fund to permit municipalities to borrow from that fund.

D. MAJOR PROVISIONS OF SENATE BILL 193

1989 Senate Bill 193 makes a variety of changes in current law relating to the imposition and administration of statutory surcharges on fines and forfeitures and proposes new restrictions on loans from the various trust funds. References below to "SECTIONS" are to SECTIONS of the Bill.

1. Loans to School Districts and Municipalities from the Various Trust Funds [SECTIONS 3 to 6]

The Bill makes changes in current law relating to loans to school districts and municipalities from the four trust funds controlled by the Board of Commissioners of Public Lands: the Common School Fund, the Normal School Fund, the University Fund and the Agricultural College Fund.

Article X, sections 2 (1) and 5, of the Wisconsin Constitution, require the annual income of the school fund to be used to support and maintain the public schools. However, the Constitution does not restrict the use of the principal of the fund.

Current state law authorizes the principal of the four trust funds to be loaned to public school districts, counties, cities, villages and towns; vocational, technical and adult education districts; public inland lake protection and rehabilitation districts; town sanitary districts; and metropolitan and joint sewerage districts.

The Bill provides that school districts shall have exclusive use of the principal of the Common School Fund for authorized purposes. Also, school districts shall be given priority over other municipalities and local government entities for loans made from the Normal School Fund, the University Fund and the Agricultural College Fund.

2. Changes in Existing Surcharges

a. Restitution costs [SECTION 12]

Under current s. 973.06 (1) (g), Stats., if a court orders an offender to pay restitution to the victim, the offender must also pay restitution costs, equal to 10% of the amount of restitution ordered, to

the county treasurer for use by the county. The state, through the circuit court and the Department of Health and Social Services, administers the restitution program and the restitution administrative surcharge is sufficient to cover the costs. The county has no administrative or other responsibilities for the restitution system.

The Bill repeals s. 973.06 (1) (g), thereby eliminating the imposition of restitution costs. However, the restitution administrative surcharge is continued, under s. 973.20 (11), Stats., which raises sufficient revenue to cover the costs of the state's administration of the restitution program.

b. Domestic abuse assessments [SECTION 11]

Currently, s. 973.055, Stats., imposes a domestic abuse assessment of \$50 if a court convicts a person of a crime and levies a fine and determines that the crime involved "domestic abuse" as defined in s. 46.95 (1) (a), Stats. The court must determine whether the crime is of a type in which domestic violence is likely to have occurred and then determine whether domestic violence actually occurred.

The Bill changes the law so that the domestic abuse assessment will be imposed if a person is convicted of crimes specified in the draft, or conforming municipal ordinances, which are against life and bodily security and: (1) if the court finds the criminal conduct involved an act against an adult family member or household member as those terms are defined under s. 46.95, Stats.; or (2) that a fine was imposed for a violation of a domestic abuse restraining order under s. 813.12 (8), Stats., or under a conforming municipal ordinance.

These changes would simplify the process of imposing the domestic abuse assessment, since the revised statute would:

(1) Enumerate the specific offenses in the Criminal Code [chs. 939 to 948, Stats.] for which the assessment can be imposed;

(2) Clearly set forth what must be the relationship between the victim and the offender in order for the assessment to be imposed; and

(3) Make the assessment contingent upon conviction rather than the imposition of a fine.

c. Crime prevention organization contribution [SECTION 14]

Under current s. 973.09 (1x), Stats., a court, as a condition of probation and, in addition to any payment of restitution, may require a probationer to make a contribution to a crime prevention organization.

The Bill clarifies which types of organizations are eligible for such payments by amending s. 973.09 (1x) to provide that contributions can be made only to "private, nonprofit" crime prevention organizations. Such organizations would not include government or profit-making organizations.

3. Surcharge Collection and Administration

Currently, there are 12 different statutory surcharges, assessments and similar monetary payments located in seven different chapters of the Wisconsin statutes.

The Bill makes a number of changes in the statutes (described below) to make it easier for law enforcement and court personnel to administer the surcharge system and to explain it to the general public.

a. Cross-referencing surcharges in the statutes [SECTION 8]

The Bill creates new s. 814.614 (1), Stats., which consolidates in a single statutory provision the cross-references to each of the surcharges which have been enacted by the Legislature to date and not repealed by the Bill.

b. Effective date for new and amended surcharges [SECTION 8]

Several of the current statutory surcharges have taken effect immediately upon the effective date of the law creating or amending the surcharge, while others have become effective on a specific date following the effective date of the law, as set forth in the legislation itself.

The Bill creates s. 814.614 (2) which establishes a uniform effective date of January 1 for the imposition of all new and amended surcharges. This provision will permit sufficient advance notice to be given to the law enforcement and court personnel who must impose and administer surcharges. A delayed effective date is provided, if a surcharge is created or amended too late in the year to be implemented by January 1.

c. Order of payment [SECTION 8]

The Bill creates s. 814.614 (3), which provides that the order of payment set forth in present s. 973.05 (2) shall be followed in all instances when statutory surcharges are imposed on an offender and the surcharges are paid in instalments. Also, forfeitures are given the same priority as fines collected under s. 973.05 (2). The order of instalment payment, if a condition of probation, in s. 973.05 (2) is as follows: (1) penalty assessment; (2) jail assessment; (3) crime victim and witness assistance surcharge; (4) drug abuse program improvement surcharge; (5)

driver improvement surcharge; (6) domestic abuse assessment; (7) natural resources assessment; (8) natural resources restitution payment; (9) weapons assessment; and (10) payment of the fine.

d. Judicial discretion in imposing surcharges [SECTION 8]

Under current law, the Special Committee concluded, surcharges may be imposed on persons who do not have the ability to pay. In some circumstances, the imposition of such monetary penalties, if it leaves a person with insufficient means of support, may not be consistent with efforts to achieve offender rehabilitation.

The Bill creates s. 814.614 (4) which gives circuit and municipal court judges discretion to waive, modify or limit the imposition of any surcharge "to avoid undue financial hardship to an offender or to his or her dependents" or to "serve the interests of justice." This provision gives the court the flexibility to waive or modify a surcharge when the court believes such relief is appropriate.

e. Reporting surcharge revenues [SECTION 8]

Although not required by law, clerks of court currently prepare a report and submit the state's portion of all surcharge collections to the State Treasurer on a monthly basis, utilizing reporting forms provided by the State Treasurer.

The Bill creates s. 814.614 (5) which requires counties to report monthly, and municipalities to report at least annually, all revenues collected from surcharges, utilizing forms that must be updated annually by the State Treasurer to reflect any new or amended surcharges.

In addition, the State Treasurer would be required to prepare, on or before March 1 of each year, a report on surcharge collections during the previous year, including a summary of statewide revenues and revenues collected by each circuit and municipal court. The report shall be submitted for review by the Joint Finance Committee, the Judiciary Committees of both houses of the Legislature and the Director of State Courts.

The reporting procedure has been codified to provide clerks of court with a uniform system for reporting surcharge revenues to the state. Also, a mechanism is provided for the transmission of this information from the State Treasurer to the legislative and judicial branches of state government for planning and budgeting purposes.

f. Fiscal estimates on surcharge legislation [SECTIONS 1 and 2]

The Bill amends s. 13.093 (2), Stats., to require an additional fiscal estimate to be prepared for bills that impose surcharges or assessments on persons who violate state laws or municipal ordinances. The fiscal estimate is in addition to any that are required from agencies that will receive the revenues from the surcharge or assessment.

The fiscal estimate, to be prepared by the Office of the Director of State Courts, will provide the Legislature with information about the numbers of persons affected by any proposed surcharge or assessment and the effects of the surcharge or assessment on law enforcement, the courts and offenders.

PART V
POLICY STATEMENT

The Special Committee on Surcharges on Fines and Forfeitures adopted a Policy Statement to accompany the Committee's final report. The Policy Statement summarizes the Committee's concerns regarding the creation and use of existing statutory surcharges and sets forth policy recommendations regarding the creation of surcharges in the future. The text of the Policy Statement is set forth in the remainder of this Part.

During the period from 1977 to 1988, 12 statutory surcharges or similar payments have been created by the Legislature; four were created in the 1987-88 Legislative Session of the Legislature. At present, the surcharges raise more money for state and local programs than do the underlying fines and forfeitures which the surcharges are intended to supplement. Many worthwhile programs for enforcement of state laws, training of law enforcement officers and providing services to victims and witnesses of crime would not exist without surcharges to finance their operations.

The Special Committee recognizes that surcharges have been created, in part, because the Wisconsin Constitution prohibits the use of fines and forfeitures for state programs. Although it may be easier to pass legislation to fund new programs from surcharge revenues, rather than using tax revenues, the Special Committee has concerns about the creation and use of surcharges. These concerns include the following:

1. The imposition and collection of surcharges creates an additional administrative burden on law enforcement and court systems and makes a determination of the amount to be collected, in deposits and bail, more complicated.
2. Surcharges are an artificial method of circumventing the Wisconsin constitutional requirement that all proceeds from fines and forfeitures must be deposited in the common school fund and thus cannot be used for other purposes.
3. Surcharges may be layered on top of other surcharges, fines and forfeitures. In many cases, surcharges are assessed against persons who pay the surcharge in addition to the fine or forfeiture. Because state law authorizes jail terms for offenders who fail to pay monetary penalties, surcharges may

have a relatively harsher impact on offenders from lower economic backgrounds.

The Special Committee has made a number of recommendations that will improve the administration and collection of the present surcharges; it has also recommended repealing the jail assessment and the restitution cost surcharges.

The Special Committee supports the following actions:

1. No new surcharges should be created.
2. The Legislature and Governor should fund programs that are meritorious not by the use of surcharges, but out of general purpose revenues or other program revenues.
3. The Legislature should consider using funding sources, other than surcharges, to support existing programs funded by surcharges.
4. The Wisconsin Constitution should be amended to require the proceeds from fines and forfeitures to be used for appropriate programs relating to drug abuse, law enforcement and victims, witnesses and offenders.

DF:GAA:jaj:las:ksm;kja

STATE OF WISCONSIN



January 20, 1989

LEGISLATIVE COUNCIL
ROOM 147 NORTH, STATE CAPITOL
MADISON, WI 53702
TELEPHONE (608) 266-1304

Bonnie Reese
Executive Secretary

The Honorable Donald J. Hanaway
Attorney General
Room 114 East, State Capitol
Madison, WI 53702

Dear Attorney General Hanaway:

As you know, the Legislative Council created the Special Committee on Surcharges on Fines and Forfeitures to undertake a comprehensive review of the various statutory surcharges imposed on individuals convicted of violating civil and criminal statutes. The study directive includes reviewing the complexities of collecting and accounting for surcharges at the state and local level, including the impact on clerks of court, law enforcement officers and others.

During the course of its deliberations, the Committee has discussed the need for a regular process to alert law enforcement personnel to changes that are about to become effective in surcharges. The Committee has tentatively agreed to create uniform effective dates for new surcharges so that the Office of Director of State Courts and the Department of Natural Resources will be able to make annual revisions in the uniform deposit and bail schedules.

However, the Special Committee believes that, in addition to receiving the revised schedules, law enforcement authorities should be alerted to the pending changes in surcharges in advance of the changes. Therefore, the Special Committee recommends that the Department of Justice consider incorporating in The Law Enforcement Bulletin, the monthly publication of the Division of Law Enforcement Services, a notice of pending surcharge changes that have been made by the Legislature and Governor. Such a notice could be inserted after a change has been enacted and in the period immediately prior to the effective date of a new surcharge.

If you have any questions or comments on this recommendation, please do not hesitate to let us know.

Sincerely,

Senator Gary R. George
Co-Chairperson, Special
Committee on Surcharges
on Fines and Forfeitures

Senator Barbara L. Ulichny
Co-Chairperson, Special
Committee on Surcharges
on Fines and Forfeitures



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

DONALD J. HANAWAY
ATTORNEY GENERAL
Mark E. Musolf
Deputy Attorney General

114 East. State Capitol
P.O. Box 7857
Madison. WI 53707-7857
608/266-1221

February 7, 1989

The Honorable Barbara L. Ulichny,
Senator
Co-Chairperson, Special Committee on
Surcharges on Fines and Forfeitures
Legislative Council
Room 147 North, State Capitol
Madison, Wisconsin 53702

Dear Barb:

I am writing in response to your correspondence concerning publication of enacted changes to statutory surcharges in the Department of Justice Law Enforcement Bulletin. As you may be aware, our office distributes the annual Uniform Deposit and Bail Schedules to Wisconsin law enforcement agencies throughout the state.

We will be pleased to comply with your request to ensure that law enforcement authorities are notified in advance of the changes. The Bulletin is distributed on the first Friday of each month and materials for publication must be received at our office not later than the thirteenth day of the month preceding publication. All items for publication should be directed to: Editor, Law Enforcement Bulletin, Crime Information Bureau, Room 219, Justice Building, 123 West Washington Avenue, Madison, Wisconsin 53702 (266-7314).

Should you have any questions or wish additional information, please do not hesitate to contact my office.

Sincerely,

Handwritten signature of Donald J. Hanaway in cursive script.
Donald J. Hanaway
Attorney General

DJH:lmq



LEGISLATIVE COUNCIL
ROOM 147 NORTH, STATE CAPITOL
MADISON, WI 53702
TELEPHONE (608) 266-1304

March 7, 1989

Bonnie Reese
Executive Secretary

The Honorable Donald J. Hanaway
Attorney General
Room 114 East, State Capitol
Madison, WI 53702

Dear Attorney General Hanaway:

Thank you for your positive response to our letter of January 20, 1989, regarding the recommendation of the Special Committee on Surcharges on Fines and Forfeitures that the Department of Justice (DOJ) inform law enforcement officers of changes in statutory surcharges.

As you know, we recommended that the DOJ notify law enforcement officers of these changes through The Law Enforcement Bulletin. Your response indicates that you would be pleased to comply with the request to ensure that law enforcement authorities are notified in advance of the changes.

However, your response seems to indicate that someone, other than DOJ, would be taking responsibility for identifying the statutory surcharge changes which would be noticed in The Bulletin. Apparently our January 29, 1989 letter was not clear on this point. We assumed that DOJ staff would provide to the staff of The Bulletin any information on changes in statutory surcharges for timely inclusion in The Bulletin.

Can we assume that DOJ will take responsibility not only for printing information on surcharges in The Bulletin, but also for identifying the information to be presented? We would appreciate hearing from you on this.

Thank you very much for your cooperation. If you have any questions on this request, please let us know.

Sincerely,

Senator Gary R. George
Co-Chairperson
Special Committee on
Surcharges on Fines
and Forfeitures

Senator Barbara L. Ulichny
Co-Chairperson
Special Committee on
Surcharges on Fines
and Forfeitures

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STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

-34-

DONALD J. HANAWAY
ATTORNEY GENERAL

Mark E. Musolf
Deputy Attorney General

114 East State Capitol
P.O. Box 7857
Madison, WI 53707-7857
608/256-1221

April 6, 1989

The Honorable Barbara L. Ulichny
State Senator
Co-Chairperson, Special Committee
on Surcharges on Fines & Forfeitures
Legislative Council
147 North, State Capitol
Madison, Wisconsin 53702

Dear Senator ^{Bald} ~~Ulichny~~.

Thank you for your recent letter in which you asked for clarification of the role of the Department of Justice (DOJ) in informing law enforcement officers of changes in surcharges on fines and forfeitures.

Yes, DOJ will take responsibility both for printing information on surcharges in the Law Enforcement Bulletin and for identifying the information to be presented. In some instances we may also decide to notify law enforcement agencies by letters.

I hope this fully answers your question.

Sincerely,

Donald J. Hanaway
Attorney General

DJH:lkq

COMMITTEE MATERIALS

Staff Materials

1. Staff Brief 88-14, Statutory Surcharges on Fines and Forfeitures (September 13, 1988, revised September 19, 1988).
2. MEMO NO. 1, Summary of Issues and Problems Relating to Surcharges (October 11, 1988).
3. MEMO NO. 2, Information on the Wisconsin School Fund (October 11, 1988).
4. MEMO NO. 3, 1987 Circuit Court and Municipal Court Caseload Statistics (October 17, 1988, revised November 1, 1988).
5. MEMO NO. 4, Options for Committee Consideration Relating to the Collection and Administration of Surcharges (November 8, 1988).
6. MEMO NO. 5, Information on the Wisconsin School Fund and Options for Special Committee Consideration (November 8, 1988).
7. MEMO NO. 6, Legislative Oversight of Proposed Surcharges (January 9, 1989).

Other Materials

1. Letter to Senator Fred A. Risser, from Senator Barbara L. Ulichny and Senator Gary R. George, requesting a Legislative Council study of surcharges on fines and forfeitures (April 7, 1988).
2. Letter to the Legislative Council from Michael A. Lutz, Attorney, Bureau of Legal Services, Department of Natural Resources, on standardization of civil forfeiture procedures (August 22, 1988).
3. Fines, Forfeitures, Assessments, Surcharges and Court Fees--Monthly Report, a form used by county and municipal officials to report and transmit money to the State Treasurer (July 1988).

4. Memorandum from Jane Beyer and Charles Morgan, Legislative Fiscal Bureau, Comparison of Estimated and Actual Revenues for Fine and Forfeiture Surcharges (October 11, 1988).

5. Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and a National Survey of Practice, by the Conference of State Court Administrators' Committee to Examine Court Costs: Filing Fees, Surcharges and Miscellaneous Fees (August 7, 1986).

6. Memorandum from Jane Beyer, Legislative Fiscal Bureau, Examples of Total Financial Penalties Assessed for Various Violations of State Laws and Local Ordinances (November 8, 1988).

7. Letter from Gwen Lindsey-Davis, Policy Development Coordinator, Wisconsin Coalition on Domestic Violence, on domestic abuse assessments (August 31, 1988).

8. Letter from Representative Barbara Notestein, on implementation of domestic abuse assessments (August 23, 1988).

9. Memorandum from Senator William P. Te Winkle, on domestic abuse assessments (August 4, 1988).

10. Memorandum to circuit court judges, district attorneys, clerks of court and domestic abuse programs from Mary Lauby, Domestic Abuse Program Coordinator, Department of Health and Social Services, Domestic Abuse Assessments (January 25, 1988).

11. Memorandum from Mark M. Rogacki, Executive Director, Wisconsin Counties Association, Jail Assessment Surcharge (December 28, 1988).

12. Letter from Janice L. Sandberg, IMC Director, D.C. Everest Senior High School, on proposed changes affecting the Common School Fund (January 9, 1989).

13. Letter from Julie A. Furst-Bowe, Media Specialist, University of Wisconsin-Eau Claire, on proposed changes affecting the Common School Fund (January 9, 1989).

14. Letter from Linda L. Stelter, Acting Library Coordinator, Eau Claire Area School District, on proposed changes affecting the Common School Fund (January 10, 1989).

15. Letter from Miriam Erickson, Legislative Chairman, Wisconsin Educational Media Association, on proposed changes affecting the Common School Fund (January 10, 1989).

16. Letter from Terri Meyer Lundberg, Media Specialist, Hartford, on proposed changes affecting the Common School Fund (January 10, 1989).

17. Letter from Emily Land, Media Specialist, Erin Elementary School, Hartford, on proposed changes affecting the Common School Fund (January 11, 1989).

18. Letter from Russell Frey, Audio-Visual Coordinator, Oconomowoc School District, on proposed changes affecting the Common School Fund (January 11, 1989).

19. Letter from Richard Block, Library/Media Director, Algoma High School Library, on proposed changes affecting the Common School Fund (January 11, 1989).

20. Letter from Mary Ziemendorf, Librarian, Luxemburg-Casco School District, on proposed changes affecting the Common School Fund (January 11, 1989).

21. Letter from James F. Krems, Principal, Rosholt Middle/High School, on proposed changes affecting the Common School Fund (January 11, 1989).

22. Letter from Lawrence Lebal, IMC Director, Merrill Area Public Schools, on proposed changes affecting the Common School Fund (January 11, 1989).

23. Letter from Jim Klein, Media Services/Instructional Computing Supervisor, Appleton Area School District, on proposed changes affecting the Common School Fund (January 11, 1989).

24. Letter from B.J. Lenz, Librarian, Luxemburg-Casco Junior High School, on proposed changes affecting the Common School Fund (January 11, 1989).

25. Letter from Sandra L. Szatranski, Senior High Library Media Specialist, Watertown, on proposed changes affecting the Common School Fund (January 11, 1989).

26. Letter from Laura J. Marusinec, Rossman School, IMC Director, School District of Hartford Joint No. 1, on proposed changes affecting the Common School Fund (January 12, 1989).

27. Letter from Paul A. Alex, Audio-Visual Coordinator, Grafton High School, on proposed changes affecting the Common School Fund (January 12, 1989).

28. Letter from Charles Wedemeyer, Media Services Coordinator, and Leila Silverberg, Librarian, Whitefish Bay High School, on proposed changes affecting the Common School Fund (January 12, 1989).

29. Letter from Dale Simonson, Coordinator of Media Services, Fond du Lac School District, on proposed changes affecting the Common School Fund (January 12, 1989).

30. Letter from Carol D. Stanke, School Board Member, Neenah Joint School District, on proposed changes affecting the Common School Fund (January 12, 1989).

31. Letter from Lynn L. Keller, School Library Media Specialist, Sevastopol School, Sturgeon Bay, on proposed changes affecting the Common School Fund (January 12, 1989).

32. Letter from Virginia Nicholas, School Library Media Specialist, Northern Ozaukee School District, on proposed changes affecting the Common School Fund (January 12, 1989).

33. Letter from Yolán M. Mistele, Library Media Specialist, Lake Mills School District, on proposed changes affecting the Common School Fund (January 12, 1989).

34. Letter from Sharon Ostermann, on proposed changes affecting the Common School Fund (January 12, 1989).

35. Letter from Gyneth Slygh, Director, Learning Resource Services, School District of Rhinelander, on proposed changes affecting the Common School Fund (January 13, 1989).

36. Letter from Marlene Zacher, Media Specialist, Neenah High School, on proposed changes affecting the Common School Fund (January 13, 1989).

37. Letter from Carolyn Cain, Library Media Director, La Follette High School, Madison, and President, Wisconsin Education Media Association, on proposed changes affecting the Common School Fund (January 13, 1989).

38. Letter from Rita Gaen, Gibraltar Area Schools, Fish Creek, on proposed changes affecting the Common School Fund (January 13, 1989).

39. Letter from Mel Selle, Media Consultant, Neenah Joint School District, on proposed changes affecting the Common School Fund (January 13, 1989).

40. Letter from Jo Ann Carr, Director, University of Wisconsin-Madison School of Education IMC, on proposed changes affecting the Common School Fund (January 13, 1989).

41. Letter from Vonna J. Pitel, Library Media Specialist/District Coordinator, Cedarburg Public Schools, on proposed changes affecting the Common School Fund (January 13, 1989).

42. Letter from K. Patricia Morse, Librarian, Kewaunee High School, on proposed changes affecting the Common School Fund (January 16, 1989).

43. Letter from Michael G. Weber, District IMC Director, School District of Hartford Joint No. 1, on proposed changes affecting the Common School Fund (January 17, 1989).

44. Letter from Julie Davis, Librarian, Southern Door County School District, on proposed changes affecting the Common School Fund (undated).

45. Letter from JoAnn Tiedemann, Library Media Center, Tomahawk High School, on proposed changes affecting the Common School Fund (undated).

46. Resolution 88-221, by the Racine County Board of Supervisors, supporting retention of the jail assessment (February 14, 1989).

47. Letter from Ralph E. Bader, Sheriff, St. Croix County, on repeal of the jail assessment surcharge (February 24, 1989).

48. Letter from Anthony R. Varda, on surcharges and assessments and petitions by Dane County court employes relating to surcharges and assessments (April 24, 1989).