

THE WISCONSIN TAXPAYER

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In Their Own Words Wisconsin Supreme Court Candidates

On Tuesday April 5th, voters will choose a justice to serve on the state Supreme Court for the next 10 years. Justice Rebecca Bradley and Judge JoAnne Kloppenburg were the two top vote-getters in the February primary. Here, unedited, each candidate provides information on educational background, professional experience, awards, and professional memberships. Candidates also were asked to submit letters to the voters explaining why they should be elected and to identify one U.S. Supreme Court Justice they most respect.

On Tuesday April 5th, Wisconsin citizens will vote in their party's presidential primary and choose municipal and local school officials. In some parts of the state, they will also elect circuit court judges.

However, only one race has impact that is statewide and lasting. Voters will elect a Supreme Court Justice to serve for the next ten years. Justice Rebecca Bradley is being challenged by Judge JoAnne Kloppenburg. Each candidate is profiled—in her own words—beginning on page two.

COURT OVERVIEW

The Wisconsin Supreme Court has seven justices: the chief justice

and six associate justices. The chief is elected to a two-year term by a majority vote of justices serving on the court.

Currently, the chief justice is Patience Roggensack, who was elected in April 2015, shortly after voter approval of a constitutional amendment changing the selection process. Before that, the longest-tenured justice served as chief.

In Wisconsin, justices are elected to 10-year terms in nonpartisan elections. The method of selecting justices varies considerably among the states. Wisconsin is one of 14 that uses nonpartisan elections. Other methods include partisan elections, gubernatorial or legislative appoint-

ments, and nonpartisan nominating committees.

To add further complexity, some states grant justices lifetime appointments, similar to the U.S. Supreme Court, while others require justices to stand for election in "uncontested retention elections" after their initial appointment or election. To remain in office, justices facing these elections must receive support from a majority of voters.

Also in this issue:

County Corrections and Law Enforcement (page 5) • Legislator Per Diems Rise • Number of Farms Declining • Private School Tuition Tax Break

Supreme Court Candidates

In an effort to inform voters, the Wisconsin Taxpayers Alliance asked supreme court candidates to: share with voters their professional backgrounds; author a “letter of application” explaining why voters ought to elect them; and to identify a U.S. Supreme Court Justice they respect. Below are their unedited responses, solicited before the February 16 primary election.

**JUSTICE
REBECCA BRADLEY**



Candidate Background

Professional Experience. Marquette University, Honors B.S., Business Administration and Economics; University of Wisconsin Law School, Juris Doctor. Over 16 years of private legal practice: Attorney with Hinshaw & Culbertson, civil litigation and appeals; Attorney with Whyte Hirschboeck Dudek, commercial, information technology and intellectual property litigation and transactions, co-chair of firm’s Technology Law Group, American Arbitration Association Arbitrator; Vice President of Legal Operations for RedPrairie Corporation, an international software company. Milwaukee County Circuit Court Judge; Wisconsin Court of Appeals Judge; Wisconsin Supreme Court Justice; First Wisconsin Supreme Court Justice to have served as Circuit Court and Court of Appeals Judge.

Awards and Distinctions. In 2012, Justice Rebecca Bradley was recognized as one of Milwaukee’s Leading Lawyers in Litigation, Business Law, and Internet Law by M Magazine. In 2010 she received the Women in Law Award from the Wisconsin Law Journal and was named a “Rising Star” Attorney on the 2010 and 2008 Wisconsin Super Lawyers list.

Professional Memberships. Wisconsin State Advisory Committee to U.S. Civil Rights Commission; State Bar of Wisconsin; Wisconsin Trial Judges Association; Juvenile Jury Instructions Committee Member; Federalist Society, Milwaukee Lawyers Chapter Board of Advisors and Past President; St. Thomas More Lawyers Society Board of Governors; Comprehensive Approaches to Youth who have been Sexually Exploited (“CAYSE”) Committee member; Milwaukee Tennis & Education Foundation Board member; Milwaukee Forum alumni member; Former attorney volunteer in guardianship proceedings for families of developmentally disabled youth; Former Chairman of State Bar’s Business Law Section; Co-author of Wisconsin

**JUDGE
JOANNE KLOPPENBURG**



Candidate Background

Professional Experience. JD, University of Wisconsin Law School (1988) Order of the Coif, University League Award, cum laude; M.P.A. Woodrow Wilson School of Public and International Affairs, Princeton (1976); B.A. Yale (1974) honors, cum laude; Presiding Judge, Wisconsin Court of Appeals, District 4; Assistant Attorney General, Wisconsin Department of Justice (1989-2012); Director, Environmental Protection Unit (1993-2003); Adjunct Faculty, University of Wisconsin Law School, Civil Procedure (1990, 1992); Law Clerk, Chief Judge Barbara Crabb, Western District of Wisconsin (1988-1989); Intern for Wisconsin Supreme Court Justice Shirley Abrahamson (1987).

Awards and Distinctions. Ran for and won seat on Wisconsin Court of Appeals, 2012; Ran for Wisconsin Supreme Court in 2011, earning 750,000 votes in the Supreme Court race with the highest voter turnout in recent history.

Professional Memberships. Board Member, Wisconsin Trust Account Foundation (2014-present); Member, Wisconsin Court System PPAC (2014-present); Speaker to legal groups around the state and country (1993-present); Volunteer Faculty, UW Law School Intensive Skills Course (1992-2015); Volunteer Judge, UW Law School and Marquette University Law School Moot Courts, and Wisconsin High Mock Trial Tournament (2011-present); Volunteer Mentor, UW Law School and Dane County Bar Association (2010-present); Coordinator/Adjunct Instructor, UW Law School DOJ Extern Program (1995-2012); Volunteer Mediator, DCBA (2010-2012); Volunteer Attorney, Dane County Foreclosure Clinic (2010-2012); Board Member, Wisconsin Legal Action (1991-1993); Active member of WSAA as an AAG; Peace Corps Volunteer (1976-1979).



Bradley cont.

Business Advisor Series chapter on Internet Law; Former Juvenile Benchbook Committee Member

You are asking voters to hire you as a Supreme Court Justice for the next ten years. Please write a letter to voters explaining why they should elect you, as opposed to one of the other candidates.

After practicing law in the private sector for over 16 years, I answered a call to public service as a Milwaukee County Circuit Court Judge in Children's Court, where I dedicated myself to strengthening families, protecting children in need, keeping the community safe, and treating everyone in court with dignity and respect. I then served as a Wisconsin Court of Appeals Judge, reviewing decisions made at the trial court level and writing opinions in all areas of the law. I am honored to bring over 19 years of experience in the legal and judicial professions to our State's highest court. I am the first Wisconsin Supreme Court Justice in state history to bring judicial experience on both the trial court and intermediate appellate court benches to our state's highest court.

Serving the people of Wisconsin as a member of the judiciary has been the most rewarding experience of my professional life, and I am grateful to those who have expressed confidence in me with their support and votes. I humbly ask the voters of Wisconsin to retain me as their Wisconsin Supreme Court Justice.

I became a judge because I care deeply about Wisconsin and its communities. I was born and raised in the city of Milwaukee and have lived in Wisconsin my entire life. After my Dad lost his job in the 1980s recession, my family struggled like many Wisconsin families. But I was blessed with parents who instilled in their four children a strong work ethic, the importance of education, and the value of family. My sisters are stay-at-home mothers. My brother is a public high school teacher. My family's experiences gave me a unique appreciation for the challenges faced by families all over our great state.

During nearly 20 years in the legal and judicial professions I have always been able to get along well with my colleagues. I bring an excellent judicial temperament, collegial manner, and positive personal demeanor to the Wisconsin Supreme Court.

My campaign focuses on my judicial philosophy: the role of justices is to interpret the law, not invent it. Jus-



Kloppenburg cont.

You are asking voters to hire you as a Supreme Court Justice for the next ten years. Please write a letter to voters explaining why they should elect you, as opposed to one of the other candidates.

Dear Voters,

We have the opportunity to choose a new justice on our Supreme Court. My opponent is Scott Walker's choice. I am running to be the people's choice. I am the only candidate who has both the background and the backbone to stand up to the partisan politics and unregulated special interest money that threaten the independence and integrity of our Court.

Proven track record as an impartial, fair, thoughtful, and principled appellate judge

I am the Presiding Judge on the Wisconsin Court of Appeals, District Four. I have issued hundreds of decisions in cases covering many areas of the law. My opponent, Rebecca Bradley, was appointed three times to three judgeships in three years by Governor Walker, and served on the Court of Appeals for only five months before being quickly elevated by Governor Walker to the Supreme Court just last fall. In one of her first decisions on the Court, she sided with Justices Roggensack, Gableman, Prosser and Zeigler to quash efforts to review the judicial code, including recusal rules.

Broadest and Deepest Legal and Judicial Experience

In addition to my proven track record as a Judge, I served for 23 years as an Assistant Attorney General at the Wisconsin Department of Justice.

I prosecuted environmental cases to help keep our air and water clean. I also handled cases in constitutional law, appellate law, administrative law, and all aspects of civil litigation. I litigated cases in circuit courts around the State and in federal courts. I argued many times before the Wisconsin Court of Appeals, the Wisconsin Supreme Court, and the Seventh Circuit Court of Appeals. I supervised attorneys who handled both civil and criminal cases in many different areas of the law.

Clear, consistent voice against partisan politics and unregulated special interests

Voters know where I stand and that I will stand up for them. But my opponent's integrity has been questioned. Rebecca Bradley said she would not coordinate with outside



Bradley cont.

tices should defer to democratic processes resulting in the creation of laws by legislatures and not impose personal policy preferences in decisions. America was founded on the principle that Constitutional laws enacted by the people's legislative representatives should be upheld by the judiciary, not second-guessed.

I am committed to the rule of law and applying the law fairly and impartially. When I proudly took the Oath of Office, I swore to support the Constitution of the United States and the Constitution of the State of Wisconsin. I understand my duty to apply the law as it is written and not as I may wish it to be. I have faithfully exercised this duty in hundreds of cases as a judge on the Milwaukee County Circuit Court, the Wisconsin Court of Appeals, and as a Justice on the Wisconsin Supreme Court. It is my honor and privilege to serve the citizens of Wisconsin.

The public is rarely familiar with judges at any level. The most likely exception would be the US Supreme Court. Please identify one justice on the US Supreme Court that you most respect and explain why.

Justice Clarence Thomas is one of the Justices on the United States Supreme Court I most respect. I particularly admire his professional achievements following a challenging personal upbringing, during which he overcame extreme poverty, segregation and racism to earn a seat on the nation's highest court. Justice Thomas demonstrates the importance of accepting individual responsibility for one's life, a value taught to him by his grandfather who helped raise him. Despite his remarkable accomplishments, he remains a humble person.

Justice Thomas has served with extraordinary distinction on the United States Supreme Court for 25 years. His opinions exhibit a clarity of analysis and writing that allows non-lawyers to read and understand them, something I strive to accomplish in my own opinions. Most importantly, Justice Thomas' judicial philosophy reflects my own. He interprets the Constitution based on an original understanding of its text instead of reading rights or meanings into the Constitution that do not exist in its language. Justice Thomas adheres to the principle that where the Constitution is silent, the people—through their elected representatives in the legislature—have the right to enact laws and set policy, something that the judiciary should not do. Justice Thomas' judicial decision-making is based on what the law says and not his personal opinions of what he would like the law to say. □



Kloppenborg cont.

groups but film footage produced by her campaign was used in a television ad by one of those groups. That appears to be coordination. Rebecca Bradley says she'll be independent, but she has a long partisan background and has accepted the Republican Party's direct assistance in her campaign. The Court indicated Rebecca Bradley was not participating in cases that were heard before she joined the Supreme Court, but recently she cast the deciding vote in such a case. We must know we can take Justices at their word.

History of Commitment and Public Service

Before law school, I served in the Peace Corps in Africa. After returning, I established a nutrition program for women and children in two rural counties. I chose the law because I value its potential to be a force for positive change. I chose to work at the Department of Justice for the opportunity to work for the people of Wisconsin on cases that have a direct, positive impact on people's lives.

I've taught at the UW Law School since 1990. I continue to be an active volunteer in my community and the legal profession.

I would be honored by your vote on April 5.

The public is rarely familiar with judges at any level. The most likely exception would be the US Supreme Court. Please identify one justice on the US Supreme Court that you most respect and explain why.

If I could only name one United States Supreme Court Justice I would say Justice Ruth Bader Ginsburg. But I must add to her name Justice Sonya Sotomayor because both of those Justices have been trailblazers for women judges and lawyers. Both of those Justices also seem to share my view of the constitution, as protecting individual rights and promoting a more equal and just society. I also respect Justice Kennedy for his ability to form coalitions among the Justices.

Here in Wisconsin we have been served by exemplary Judges as well: Justice Shirley Abrahamson with whom I interned as a law student and Federal Judge Barbara Crabb for whom I served as a law clerk upon graduation. I respect Justice Abrahamson's intellect, her work ethic and her vision for a more accessible and transparent court, a vision she has helped realize with initiatives like the "court on wheels." Judge Crabb taught me a great deal about judicial independence, how to write with rigor and clarity, and the importance of treating all who come before you with grace and respect. □

County Corrections and Law Enforcement

Wisconsin discussions about corrections typically focus on the state prison system. This is not surprising as most violent offenders are sent there. Wisconsin spends more than \$1.1 billion annually on a prison system that houses more than 22,000 offenders.

Often ignored are the costs of running county jails and county law enforcement. The state's 72 counties spend nearly \$500 million annually on corrections, and about that same amount on law enforcement.

BACKDROP

Two of the most important factors affecting county costs are crime rates and resources available to fund spending. Rising crime often leads to more officers and expanded jails. County corrections are affected mostly by nonviolent crime, as violent offenders are typically sentenced to state prison. However, law enforcement and corrections compete with other county programs for revenue streams that are often growing little.

Crime Rates

Since 2000, Wisconsin's crime rate has been either rising or falling, depending on your perspective. Violent crimes (murder, rape, robbery, and aggravated assault) in Wisconsin rose during 2000-14, bucking the national trend. In 2000, Wisconsin had 237 violent crimes per 100,000 residents. Over the ensuing 14 years, the violent crime rate climbed 22% to 290 per 100,000 residents (see Figure 1, blue line). Nationally, violent crime fell 28% during those years,

though Wisconsin's rate remains significantly below the national rate.

Nonviolent crime (e.g., burglary, larceny, and vehicle theft) is more common, but has been declining. The rate of nonviolent crime fell 30% during 2000-14, from 2,972 per 100,000 residents to 2,088. A decline in nonviolent crime should be a positive for county correctional spending.

County Revenues Strained

For much of the past 14 years, counties have faced little or no growth in most state aid programs. And since 2006, the state has also limited the amount of property taxes they could collect. During 2000-07, total county revenues rose 36.4%, or an average of 4.5% per year. With more recent state aid cuts and tighter property tax limits, revenue growth halted during 2007-14, increasing just 0.5%.

However, after accounting for inflation and rising population, revenues fell 13.8%, from \$1,047 per capita in 2007 to \$903 per capita in 2014 (see Figure 2). For the remainder of this report, all revenue and spending figures are inflation-adjusted.

It is within this framework of rising violent crime, but declining nonviolent crime and inflation-adjusted total revenues that county law enforcement and corrections are examined.

STAFFING

The number of full-time county law enforcement employees declined slightly during 2007-14. Federal figures show employment falling 3.9% from 7,486 full-time workers in 2007 to 7,207 in 2014.

Figure 1: Wisconsin Crime Rate Patterns Mixed
Violent Crime Rises, Nonviolent Crime Falls, 2000-14

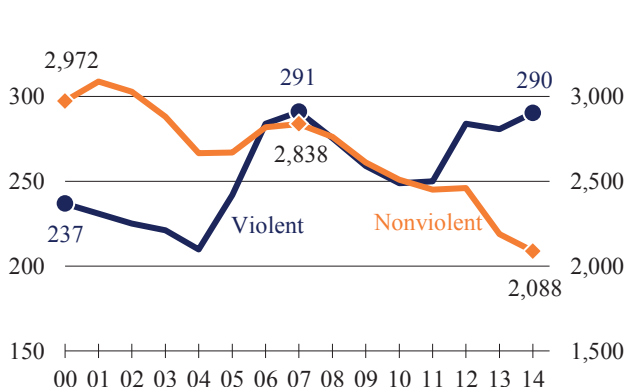
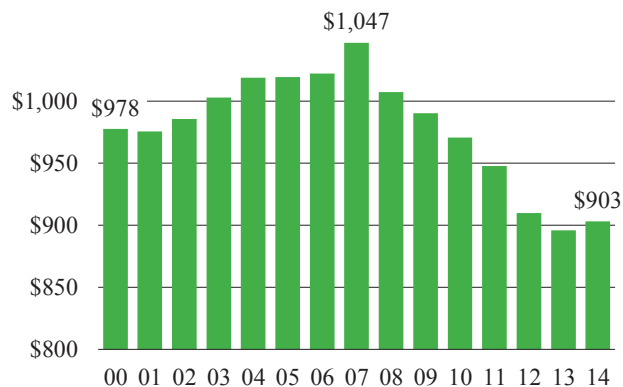


Figure 2: Per Capita County Revenues Declining
Inflation-Adjusted Per Capita Total Revenues, 2000-14



While the overall trend was down, there were exceptions; staffing increased more than 10% in 11 counties, and more than 5% in another eight. However, in 13 counties, full-time employment declined more than 10%.

COUNTY PRISONERS

In Wisconsin, offenders sentenced to confinement for more than one year are sent to state prison. Those sentenced to lesser terms typically are confined to a county jail.

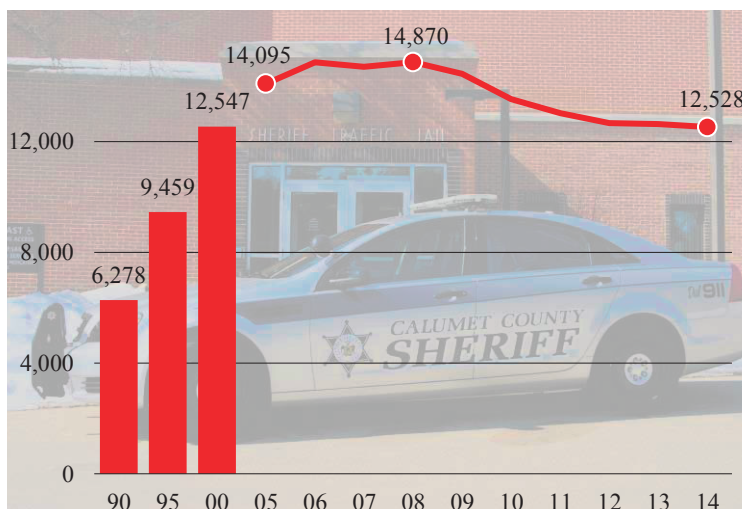
After increasing for decades, Wisconsin's county jail populations have declined in recent years. In 1990, the average daily population was 6,278. Over the next 10 years, that figure doubled to 12,547 in 2000 (see Figure 3).

After 2000, county jail populations continued to climb, but at a slower pace, increasing 18.5% to 14,863 by 2006. Populations then stagnated over the next two years, and have since declined steadily. In 2014, average daily populations were 16% below their 2008 peak.

COUNTY SPENDING

Despite total revenues declining, counties have maintained funding of law enforcement and corrections. In 2014, they spent a total of \$969.5 million, down just 0.3% from the \$977.1 million spent in 2007. A total of 18.2% of 2014 county spending was in these two areas, up from 16.6% in 2007. While combined spending has changed little, the mix of the two has changed, with spending on law enforcement rising and corrections falling.

Figure 3: County Jail Populations Declining
Average Daily Populations in Wisconsin County Jails, 1990-2014



Corrections

The pattern of county spending on corrections during 2007-14 reflects the decline in prisoner population. During those years, operating costs for county jails and other corrections programs fell 9.0%, from \$511.2 million to \$465.2 million. Capital spending—expenditures for such items as a new or expanded jail—was more volatile than operating expenses, ranging from \$9.1 million in 2013 to \$30.2 million in 2011. In 2014, capital spending for corrections was just two-thirds of its 2007 level (\$14.4 million versus \$21.5 million).

Table 1: Corrections Costs Vary
Counties Spending Most and Least Per Capita, 2014

Rk.	County	Amt.	Rk.	County	Amt.
1	Forest	\$205	63	St. Croix	\$44
2	Kenosha	143	64	Green	41
3	Milwaukee	142	65	Crawford	40
4	Sawyer	141	66	Iowa	37
5	Florence	138	67	Pierce	32
6	Dodge	120	68	Calumet	29
7	Columbia	119	69	Grant	23
8	Douglas	118	70	Eau Claire	10
9	Sauk	108	71	Menominee	10
10	Washburn	103	72	Iron	0

Per Capita. Relative to population, counties spent \$81 per person on corrections in 2014, down 10.3% from \$91 in 2007.

Spending per capita varied widely by county. In 2014, rural Forest County (\$205) spent the most, followed by urban Kenosha (\$143) and Milwaukee (\$142) counties (see Table 1). Ten counties spent more than \$100 per resident on corrections.

Iron County has reported no corrections spending since 2005. Eau Claire and Menominee (both \$10 per capita) spent the least. Grant (\$23) and Calumet (\$29) both spent less than \$30 per resident.

Per Inmate. An alternate way to consider corrections spending is per inmate (average daily populations). In 2014, statewide county correctional spending was \$37,132 per inmate, up 6.8% from \$34,766 in 2007.

Spending per inmate varied widely by county, though most counties—40 of 72—spent between \$25,000 and \$40,000 per inmate. Eight counties spent more than \$60,000 per inmate: Buffalo, Florence, Kewaunee, Lafayette, Pierce, Portage, Trempealeau,

and Washburn. At \$59,356, Milwaukee County spent slightly less.

Counties spending less than \$25,000 per inmate included three outliers. As mentioned, Iron County reported no corrections spending, while Menominee (\$776) and Eau Claire (\$3,919) reported less than \$4,000 per inmate. Other “low-spending” counties included Lincoln, Racine, Shawano, Vilas, and Waushara.

Law Enforcement

In addition to operating county jails and other corrections programs, counties also provide law enforcement services, including expenditures for officers’ salaries and benefits, communication, and crime prevention and related programs.

While total county spending declined 9.8% during 2007-14, law enforcement spending increased 10.2% from \$444.5 million to \$489.9 million. Part of that increase was due to unusually large capital expenditures on new or remodeled buildings, vehicles, or other law enforcement equipment. Excluding capital outlays, operating expenses rose 8.6% during 2007-14, from \$429.1 million to \$466.1 million.

By County. Wisconsin’s less populous, rural counties spend more per capita on law enforcement than more populous, urban counties. Several factors play a role.

First, urban counties have underlying municipalities with police departments, lessening the need for extensive county services. Second, and related, few towns have their own police departments, and are not legally required to do so. Instead, towns typically rely on the county to provide law enforcement. Rural counties have a greater share of their population living in towns, requiring a proportionately larger force.

Table 2: Per Capita Costs Higher in Rural Counties
Per Capita Law Enforcement Expenditures, 2014

Rk.	County	Amt.	Rk.	County	Amt.
1	Iron	\$323	63	Barron	\$70
2	Florence	300	64	Manitowoc	70
3	Menominee	233	65	Grant	70
4	Forest	223	66	Rock	69
5	Vilas	219	67	Outagamie	64
6	Marquette	192	68	Waukesha	58
7	Adams	182	69	Milwaukee	52
8	Bayfield	175	70	Chippewa	52
9	Rusk	170	71	Winnebago	47
10	Oneida	162	72	La Crosse	41

Finally, there is some minimum level of staffing all counties need. Urban counties spread these costs over more people, reducing per capita costs.

Two northern counties, Iron and Florence, spent the most per resident on law enforcement in 2014, \$300 or more per capita. Menominee (\$233), Forest (\$223), and Vilas (\$219) each spent more than \$200 per resident.

At \$41 per capita, La Crosse spent the least, followed by Winnebago (\$47), Chippewa (\$52), Milwaukee (\$52), and Waukesha (\$58) counties.

While spending levels were related to county populations, 2007-14 changes were not. On average, per capita law enforcement spending rose 7.0% during these years. It increased the most in Eau Claire (98.1%), Milwaukee (62.6%), Florence (43.3%), Ashland (43.3%), and Forest (38.1%) counties. Inflation-adjusted per capita spending declined in 26 counties. □

DATA SOURCES:

Federal Bureau of Investigation; Wisconsin Department of Revenue; Wisconsin Office of Justice Assistance.

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PERIODICALS
USPS 688-800

WISTAX NOTES

■ **Legislator Per Diems Rise.** Despite claiming 389 fewer days in Madison, reimbursements for state legislator expenses (per diems) were 3.8% higher in 2015 than in 2013, the most recent nonelection year. Increases in assembly per diem rates led to a 7.5% jump in claims, but were partially offset by a 6.5% drop in senate reimbursements, where rates were unchanged. Legislators received \$1.21 million in per diems last year compared to \$1.16 million in 2013 (see chart).

The average state legislator claimed 105 days at the State Capitol last year. Those claiming the most days were either in leadership or from the Madison area: Sen. Jon Erpenbach (D-Middleton, 217 days), Sen. Fred Risser (D-Madison, 199), Sen. Scott Fitzgerald (R-Juneau, Majority Leader, 169), Rep. Terese Berceau (D-Madison, 153), Rep. Sindy Pope (D-Cross Plains, 153), and Rep. Lisa Subeck (D-Madison, 153).

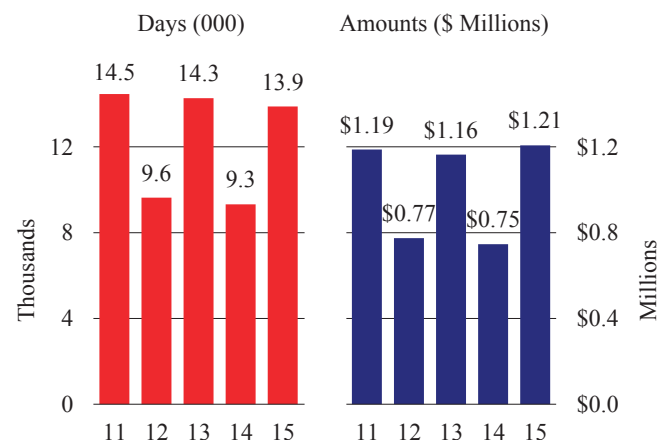
Among legislators in office for the full year, those claiming the fewest days were Rep. Nancy VanderMeer (R-Tomah, 9), Rep. Rob Hutton (R-Brookfield, 55), Rep. Thomas Weatherston (R-Caledonia, 56), Rep. Mike Rohrkaste (R-Neenah, 57), and Rep. Travis Tranel (R-Cuba City, 57).

■ **Number of Farms Declining.** In 2015, the number of Wisconsin farms declined by 100 to an estimated 68,900, while total acreage fell by 100,000 to 14.4 million, according to a U.S. Department of Agriculture (USDA) survey. This continues a longer trend of fewer farms and less farmland. Since 2007, the number of Wisconsin farms has declined 12.2% and acreage dropped 5.3%.

The number of “small” farms dropped the most during 2007-15; those with combined sales and government

Legislators: Fewer Capitol Days, More Per Diem Costs vs. 2013

Per Diem Days (000) and Reimbursements (\$ Millions), 2011-15



payments of less than \$10,000 fell 25.4% from 40,900 to 30,500. The number of farms with sales and government payments from \$100,000 to \$249,000 dropped 15.1% from 8,600 to 7,300, while those with revenues of more than \$500,000 increased 48.6% from 3,500 to 5,200.

■ **Private School Tuition Tax Break.** Beginning in 2014, parents with children attending private schools were allowed a state income tax deduction for tuition paid up to \$4,000 for K-8 students and \$10,000 for high school students. In the first year, 37,240 filers claimed deductions totalling \$174.2 million. WISTAX researchers estimate the deduction reduced taxes owed by about \$11.2 million. □

In FOCUS . . . recently in our biweekly newsletter

- County levies up 2%; total property taxes statewide up slightly more (#1-16)