

Wisconsin Department of Transportation

www.dot.state.wi.us

49-2 JUN 15 2000
3

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

June 14, 2000

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 203**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 203. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Ernie Wittwer
Mary Forlenza
Joe Nestler

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This rule making creates ch. Trans 203, which will implement 1999 Wis. Act 9, Section 1870. The Act requires each county and municipality to assess the physical condition of highways under its jurisdiction using a department-approved pavement rating system and report the results to the Department. Trans 203 will set forth provisions regarding the method counties and municipalities will use to assess the physical condition of highways, the method the Department will use to assess the accuracy of data, and the manner in which the Department will cooperate and provide assistance to local units of government in their mileage determination efforts.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

Collection of pavement rating data is required to populate the new local roads database known as the Wisconsin Information System for Local Roads (WISLR). Currently, counties and municipalities (locals) are not required to collect pavement rating data. Pursuant to 1999 Wis. Act 9, § 1870, the deadline for locals to collect and report pavement rating data will be December 15, 2001, and will be required biennially thereafter. Trans 203 will define guidelines for acceptable pavement rating systems, including a specification of exact data elements that the locals must report, and the manner in which locals should report data back to the Department.

The Department faces two policy alternatives in developing a pavement rating system. It may develop a list of acceptable pavement rating software systems or it may define criteria and create a process for Department approval of pavement rating software systems. The second alternative would better accommodate technological innovation, but it may require more initial work in terms of creating the criteria and process for approval.

More complex rating systems require more time to rate the roads. This raises the issue of aging data as time lapses while locals continue their efforts to rate all highways in their jurisdiction. The rule will address this problem by defining the age of acceptable data for systems of varying complexity.

Under the current policy, local governments can submit their data in several forms for the initial load of data into WISLR. These forms include paper copy, floppy disk, electronic mail and web interface. One policy approach would be to continue accepting a wide variety of formats in an effort to gather a maximum amount of data from locals. However, the drawback to this approach is that it creates more work in collating data once the data reaches the Department. An alternative to minimize this problem would

be to develop and provide specific formats for the various forms of data submittal. Although this may reduce flexibility for locals, it will ultimately reduce the amount of work required from the Department when the local data arrives.

1999 Wis. Act 9, s. 86.302(2), Stats., replaces the previous s. 86.302(2) which stated, "The Department shall inventory and verify all road mileage in a county or municipality once every 10 years." Pursuant to that version of the statute, the Department assesses the accuracy of data for local road mileage certification. Under the amended statute, the Department will no longer perform this 10-year inventory and verification. Instead, Trans 203 will develop a method for the Department to use for assessing physical condition data in a manner similar to the method it had utilized for the assessment of mileage data under the prior version of s. 86.302(2). In addition, a framework for defining a valid random sample will be developed.

The extent to which the Department will provide assistance to local governments in their jurisdictional mileage determination efforts will also be defined. Optimally, Trans 203 would provide guidance to local governments to enable them to accomplish the majority of the assessment process themselves, rather than being dependent upon the Department for this assistance.

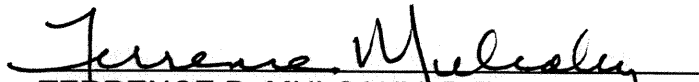
STATUTORY AUTHORITY FOR THE RULE:

s. 86.302(2), Stats., as amended by 1999 Wis. Act 9, § 1870.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

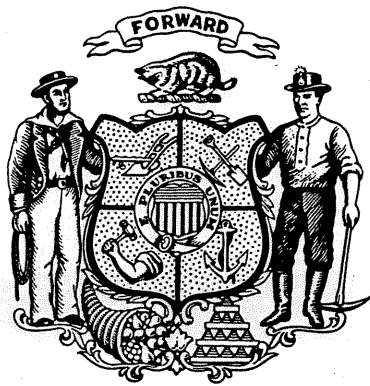
80 hours

Signed at Madison, Wisconsin, this 14 day
of June, 2000.

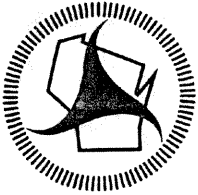

TERRENCE D. MULCAHY, P.E.
Secretary

Wisconsin Department of Transportation

END



END



Wisconsin Department of Transportation

www.dot.state.wi.us

NOV 08 1999
5

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

November 5, 1999

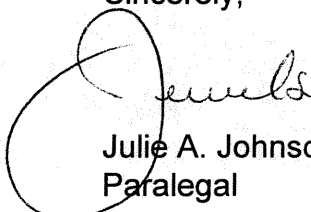
Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 206**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 206. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Sandy Beaupre
Mike Goetzman
Ernie Wittwer
Marcia Traska
Ana Aquino-Perez

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This rule making will amend several sections in Ch. Trans 206, which interprets and administers procedures for assisting in the improvement of deteriorating local highways, streets, and roads under s. 86.31 (6), Stats. Specifically, the rule will:

- Interpret section 2486hg enacted by 1997 Wis. Act 27, which incorporates the CHIP-D program for high cost county highway projects of at least \$250,000 in eligible total project costs, and create procedures and criteria for the selection of projects.
- Include the new Municipal Street Improvement Discretionary Program (MSIP-D), created in 1999 Wis. Act 9, for high cost municipal street improvement projects costing at least \$250,000 in eligible total project costs, and create procedures and criteria for the selection of projects.
- Incorporate the new bidding requirements for town projects including the criteria that specifies when a project may be awarded to a county, and criteria for the selection of the lowest responsible bidder.
- Repeal current restrictions on the amount of work a county can perform under the County Highway Improvement (CHIP) and County Highway Improvement Discretionary (CHIP-D) programs. Include new criteria to determine when it will be cost-effective for a county to do the work, and procedures for review of disputes relating to whether proposed work to be done by county highway departments is cost-effective.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

The 1997 Wis. Act 27, s. 86.31 (3g), provides for an annual \$5,000,000 discretionary allocation from the Local Roads Improvement Program (LRIP) to fund a discretionary county highway improvement program, similar to the existing discretionary program for high-cost town roads. It specified that eligible projects must have a total estimated cost of at least \$250,000. The current LRIP matching requirements will apply to this component.

The 1999 Wis. Act 9, s. 86.31 (3r), provides for a \$2,000,000 biennial (\$1.250 million the first year of the biennium and \$750,000 on the second year) discretionary allocation from the Local Roads Improvement Program (LRIP) to fund a discretionary municipal

street improvement program, similar to the existing discretionary programs for high-cost town roads and county highways. It specified that eligible projects must have a total estimated cost of at least \$250,000. The current LRIP matching requirements will apply to this component.

Currently, the statutes requires that all LRIP projects be awarded on the basis of competitive bids and be awarded to the lowest responsible bidder. However, it also makes provision for any city, village, or town that does not receive a responsible bid on a project to contract with the county for the improvement.

1999 Wis. Act 9 deletes the above provision for town projects only and requires an amendment to the rule to incorporate new bidding requirements for town projects. It also requires the inclusion of criteria and procedures for determining when a contract for a project under the town road improvement programs may be awarded to a county, including, at a minimum:

- A requirement that a written and sealed pre-bid estimate of the cost of the improvement, including the source of the estimate, be prepared prior to the opening of the bids.
- A requirement that all bids may be rejected and the contract awarded to a county for the improvement if the lowest bid exceeds the cost of the cost estimate by at least 10% and the town board notifies the lowest two bidders or, if only one bid was received, the single bidder, to provide information on the accuracy of the cost estimate.
- A requirement that the amount of the contract with a county for the improvement be at least 10% below the lowest bid received for the improvement.
- A provision that permits re-bidding if the amount of the proposed contract with a county for the improvement is less than 10% below the lowest bid received for the improvement.

The above amendment on the bidding requirements are specific to town projects only and are only valid when a town rejects a bid based on price.

Currently, the statutes allow county trunk highway improvements to be performed by county highway departments subject to the following restrictions:

- That no improvement done by county highway departments may exceed \$100,000 in cost, or 0.5% of the total amount of funds distributed to counties under the basic county formula component of the program, whichever is greater;

- Work done by any county highway department may not exceed 40% of that county's highway improvements funded under the program; and
- Work performed within any transportation district by county highway departments within the district may not exceed 30% of the biennial amount allocated to counties for county trunk highway improvements in that district.

1999 Wis. Act 9 deletes the above restrictions on the amount of work on county trunk highways that may be done by county highway departments under the county highway improvement programs. It will amend the statutes to specify that county highway departments may do work under the basic county highway improvement program or the discretionary county highway improvement program if they demonstrate that doing so will be cost-effective, provided that each county highway department uses competitive bidding for projects with a combined total cost equal to at least the amount of state funds allocated to the county under the program during the biennium.

Furthermore, the bill requires WisDOT to amend the administrative rule to include:

- Criteria for determining whether a project can be done cost-effectively by county highway departments; and
- Procedures for review by DOT of disputes relating to whether proposed work to be performed by a county highway department is cost-effective.

In addition, it eliminates the provision that requires each county highway improvement district committee to ensure compliance with the provisions related to the amount of work that may be done by county highway departments. The bill, instead, requires these committees to do the following:

- Review each project proposed to be done by a county highway department and determine if it would be cost effective for the county highway department to perform the work; and
- Approve the proposed project prior to its being performed by the county highway department.

The bill further modifies the membership of county highway improvement district committees to specify that they shall be composed of the highway commissioners from each county in the district, instead of not more than five county executives, or county board chairpersons in counties that do not have county executives, or their designees.

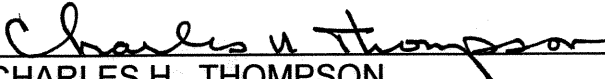
STATUTORY AUTHORITY FOR THE RULE:

s. 86.31, Stats.

**ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND
DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO
DEVELOP THE RULE:**

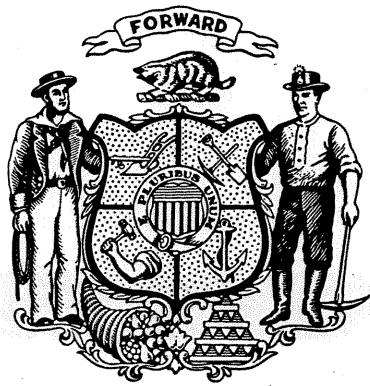
Estimated 7 months to completion.

Signed at Madison, Wisconsin, this 4 day
of November, 1999.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

END



END



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

March 14, 2000

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 276**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 276. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Jim Gruendler
Ashwani Sharma

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding one highway segment to the network. The actual segment being proposed is State Trunk Highway 17 from STH 64 in Merrill to USH 8 in Rhinelander.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to deal with changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received requests from Pat Walker Trucking of Gleason, WI, L & S Trucking of Wausau, Rhinelander Transfer/Bekins of Rhinelander, Dahlquist Trucking of Rhinelander, Elite Carriers of Wausau, Tomahawk Transfer & Distribution of Tomahawk, Spirit Express, Inc., of Rhinelander, Pioneer Transportation, Ltd. and B & D Motors, Inc., both of Merrill, WI, to add one highway segment.

STATUTORY AUTHORITY FOR THE RULE:

s. 348.07(4), Stats.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

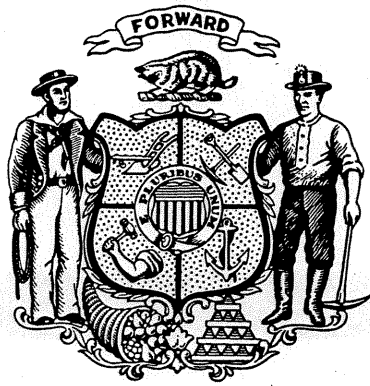
It is estimated that state employees will spend 40 hours on the rule-making process, including research, drafting and conducting a public hearing.

Signed at Madison, Wisconsin, this 14 day of March, 2000.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

END



END

PI 24
Relating to state aid for achievement guarantee
contracts and aid for debt service

60-day extension request



State of Wisconsin Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

May 1, 2000

The Honorable Judith Robson, Co-Chair
Joint Committee for the Review of Administrative Rules
15 S, State Capitol
Madison, WI 53702

The Honorable Glenn Grothman, Co-Chair
Joint Committee for the Review of Administrative Rules
15 N, State Capitol
Madison, WI 53702

Dear Senator Robson and Representative Grothman:

The Department of Public Instruction is submitting this letter as a petition to extend for 60 days the effective period of the emergency rule relating to state aid for achievement guarantee contracts and aid for debt service.

1999 Wisconsin Act 9 requires the department to promulgate rules relating to 1) state aid for achievement guarantee contracts and 2) aid for debt service. The department promulgated these rules as emergency rules effective January 28, 2000.

State Aid for Achievement Guarantee Contracts:

Beginning in the 2000-01 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one or more schools excluding those that already have such contracts, that are participating in the preschool through grade 5 program under s. 115.45, Stats., or that are in districts that were eligible to participate in 1996-97 and 1998-99 but did not. In the 2000-01 school year, the department is required to calculate and pay aid to schools participating in the program under s. 118.43 (3) (a) and (am), Stats., before making payments to schools that have contracts under s. 118.43 (3) (ar), Stats. The aid amount must equal \$2,000 multiplied by the number of low-income pupils enrolled in the grades eligible for funding in each school. In making payments to districts on behalf of schools with contracts under s. 118.43 (3) (ar), Stats., the department is required to give priority to schools that have the highest percentage of low-income enrollment. The department is also required to ensure that it fully distributes the amount of aid appropriated. The rules set forth criteria and procedures for accepting and approving contracts, collecting data and paying aid.

Partial Debt Service Reimbursement:

Beginning in the 2000-01 school year, a school district is eligible to receive an amount equal to 20% of the annual debt service cost on bonds issued to fulfill a SAGE contract. The rules establish criteria and procedures for SAGE school districts to receive partial debt service reimbursement.

The emergency rules will expire June 26, 2000. The proposed permanent rules were submitted to the Legislative Council Rules Clearinghouse on January 14, 2000. The department held a public hearing on March 15, 2000 in Madison. Notice of rules in final draft form were submitted to the presiding officers of each house of the legislature on April 10. We hope to have permanent rules in place by August 1, 2000.

We are requesting this extension to ensure that procedures relating to program participation remain in place during the legislative review period of the proposed permanent rules. If you have any questions relating to this request, please contact Janice Zmrazek, SAGE Program Coordinator, at (608) 266-2489. Thank you for your consideration of this request.

Sincerely,

John T. Benson
State Superintendent

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
ADOPTING EMERGENCY RULES**

The state superintendent of public instruction hereby proposes to create Chapter PI 24, relating to state aid for achievement guarantee contracts and aid for debt service.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: ss. 118.43 (6m) and (8) (b) and 227.11 (2) (a), Stats.

Statute interpreted: s. 118.43, Stats.

1999 Wisconsin Act 9 requires the department to promulgate rules relating to 1) state aid for achievement guarantee contracts and 2) aid for debt service.

State Aid for Achievement Guarantee Contracts:

Beginning in the 2000-01 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one or more schools excluding those that already have such contracts, that are participating in the preschool through grade 5 program under s. 115.45, Stats., or that are in districts that were eligible to participate in 1996-97 and 1998-99 but did not. In the 2000-01 school year, the department is required to calculate and pay aid to schools participating in the program under s. 118.43 (3) (a) and (am), Stats., before making payments to schools that have contracts under s. 118.43 (3) (ar), Stats. The aid amount must equal \$2,000 multiplied by the number of low-income pupils enrolled in the grades eligible for funding in each school. In making payments to districts on behalf of schools with contracts under s. 118.43 (3) (ar), Stats., the department is required to give priority to schools that have the highest percentage of low-income enrollment. The department is also required to ensure that it fully distributes the amount of aid appropriated. The rules set forth criteria and procedures for accepting and approving contracts, collecting data and paying aid.

Partial Debt Service Reimbursement:

Beginning in the 2000-01 school year, a school district is eligible to receive an amount equal to 20% of the annual debt service cost on bonds issued to fulfill a SAGE contract. The rules establish criteria and procedures for SAGE school districts to receive partial debt service reimbursement.

SECTION 1. Chapter PI 24 is created to read:

CHAPTER PI 24

STATE AID FOR ACHIEVEMENT GUARANTEE CONTRACTS AND

PARTIAL DEBT SERVICE REIMBURSEMENT

SUBCHAPTER I – GENERAL PROVISIONS

PI 24.01 Definitions. In this chapter:

- (1) "Department" means the Wisconsin department of public instruction.
- (2) "SAGE" means the student achievement guarantee in education program created under s. 118.43, Stats.

(3) "School" means an educational unit within a public school district that is named on the PI-1290 fall enrollment report.

SUBCHAPTER II – AID PAYMENT

PI 24.02 Purpose. Under s. 118.43 (2) (br), Stats., beginning in the 2000-01 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one or more schools. In the 2000-01 school year, the department is required to calculate and pay aid to schools participating in the program under s. 118.43 (3) (a) and (am), Stats., before making payments to schools that have contracts under s. 118.43 (3) (ar), Stats. The aid amount must equal \$2,000 multiplied by the number of low-income pupils enrolled in the grades eligible for funding in each school. In making payments to districts on behalf of schools with contracts under s. 118.43 (3) (ar), Stats., the department is required to give priority to schools that have the highest percentage of low-income enrollment. The department is also required to ensure that it fully distributes the amount of aid appropriated. This subchapter sets forth school district eligibility requirements and criteria and procedures for accepting and approving contracts, collecting data and paying aid, as required under s. 118.43 (6m), Stats.

PI 24.03 Eligible applicants, contract deadlines and calculation and payment of aid. (1) **ELIGIBLE APPLICANTS.** Except for school districts that were eligible to participate in the 1996-97 and 1998-99 school years and did not participate in the program during either year, a school district is eligible to participate in the SAGE program in the 2000-01 school year if in the 1998-99 school year a school in the district had an enrollment that was at least 0% low-income. The board of an eligible district may then enter into a contract with the department on behalf of one or more schools excluding those that already have contracts under s. 118.43 (3) (a) or (am), Stats., or that are participating in the preschool through grade 5 program under s. 115.45, Stats.

(2) **CONTRACT DEADLINES.** Contracts beginning in the 2000-01 school year shall be submitted by April 1, 2000. Subsequent deadlines may be established by the department if additional funds are available after funding contracts submitted by the initial April 1 deadline. The department's authority to enter into contracts ends June 30, 2001.

(3) **AID CALCULATION.** After the initial April 1 date for submission of contract materials has passed, the department shall estimate the amount of aid to be paid in the 2000-01 school year to each school that already has a contract under s. 118.43 (3) (a) or (am), Stats., and subtract those amounts from the total aid available. The department will then estimate the aid for each school for which a contract has been submitted under s. 118.43 (3) (ar), Stats., as follows:

(a) If the amount of aid needed to fully fund all the contracts submitted under s. 118.43 (3) (ar), Stats., is more than the amount remaining in the appropriation after subtracting the estimated payments to schools with contracts under s. 118.43 (3) (a) or (am), Stats., the department shall rank the contracts submitted under s. 118.43 (3) (ar), Stats., based on the low-income enrollment of each school. The department will enter into contracts on behalf of all schools that it estimates can be fully funded at the required rate from the amount of aid available, giving priority to the schools that have the higher percentage of low-income enrollment. The department shall determine the low-income enrollment for each school using subsidized lunch eligibility data collected by the department.

(b) If the amount of aid needed to fully fund all the contracts submitted under s. 118.43 (3) (ar), Stats., is less than the amount remaining in the appropriation after subtracting the estimated payments to schools with contracts under s. 118.43 (3) (a) or (am), Stats., the department shall enter into contracts with the districts on behalf of all schools for which contracts have been submitted by the established deadline dates.

(c) If unallocated funds remain in the appropriation after the actual amounts of aid to be paid to all participating schools with contracts under s. 118.43 (3) (a), (am) and (ar), Stats., have been calculated after the beginning of the 2000-01 school year, the department shall continue to solicit contracts throughout the 2000-01 school year and enter into contracts as they are submitted until the maximum possible amount of aid has been distributed.

(4) PAYMENT OF SAGE AID. The department shall pay aid 3 times during the school year at the end of October, January and June upon the school district meeting the reporting requirements specified under the contract.

NOTE: PI-SAGE, Student Achievement Guarantee in Education (SAGE) Five-Year Achievement Guarantee Contract, may be obtained at no charge from the Department of Public Instruction, P. O. Box 7841, Madison, WI 53707-7841.

SUBCHAPTER III – STATE AID FOR DEBT SERVICE

PI 24.05 Purpose. Under s. 118.43 (8), Stats., beginning in the 2000-01 school year, a school district is eligible for an aid payment equal to 20% of the district's annual debt service on bonds approved by referendum prior to June 30, 2001 where a portion of the bond proceeds is to be used to fulfill a contract under s. 118.43, Stats. This subchapter sets forth criteria and procedures for awarding state aid for SAGE related debt service.

PI 24.06 Eligible applicants and program requirements. (1) A school district other than a school district under ch. 119, Stats., shall meet all of the following requirements to receive an amount equal to 20% of the annual SAGE related debt service cost on bonds:

(a) On or after October 29, 1999, the school board shall adopt an initial resolution under s. 67.05 (6a), Stats., for issuance of bonds where the purpose for borrowing includes providing funds for classroom expansion necessary to fulfill a contract under s. 118.43, Stats. The school board shall submit a copy of the resolution to the department as required under s. 120.115 (1) (a), Stats. A copy of the resolution shall be submitted to the department and shall include all of the following:

1. The total amount to be borrowed.
2. The amount of borrowing proceeds that will be used for SAGE classroom expansion.

(b) A copy of the resolution submitted under par. (1) (a) shall be accompanied by a statement signed by the school board president and school board clerk on a form provided by the department identifying the amount of the bond proceeds that are required for SAGE classroom expansion by construction or renovation and the related furnishing and equipping thereof. The department shall approve or disapprove the amount identified as being necessary to fulfill a contract under s. 118.43, Stats. Before making a decision regarding approval or disapproval of the amount, the department may require the district to furnish additional documentation from a 3rd party as to the reasonableness of the amount identified for SAGE

purposes. The department shall issue a decision in writing to the school district after receiving all requested information within 10 working days of receipt of said information.

NOTE: PI-7205 SAGE Classroom Expansion, Application for State Aid, may be obtained at no charge from the Department of Public Instruction, P. O. Box 7841, Madison, WI 53707-7841.

(c) Within 10 days after holding the referendum authorizing the school district to incur debt on the initial resolution, the school board shall notify the department of the approval or rejection of the referendum as required under s. 120.115(1)(b), Stats.

(d) Within 10 days after adopting or revising a schedule for the payment of debt service under this subchapter, the school board shall submit the schedule to the department.

(2) If an initial resolution was adopted on or after October 29, 1999 but did not meet the requirements under sub. (1), the school board may adopt a supplemental resolution to amend the initial resolution to fulfill the requirements of sub. (1) and of s. 67.05 (6a), Stats.

(3) A school board shall hold a referendum before June 30, 2001, in order to receive aid under this subchapter.

PI 24.07 Payment of debt aid. (1) The department shall make an aid payment on a current fiscal year basis to the district in an amount equal to 20% of the SAGE portion of the debt service payment, excluding any payments required on bond anticipation notes. The department shall develop a proration formula if adequate funds are not available.

(2) The department shall calculate the SAGE portion of debt payment as the percentage of the original amount approved for SAGE purposes under PI 24.06 (1) (a) 2. to the total amount borrowed under s. PI 24.06 (1) (a) 1., multiplied by the annual debt service payment.

(3) The department will not pay aid to school districts under this subchapter for SAGE related school district referenda held on or after June 30, 2001.

(4) The department will not pay aid to school districts under this subchapter if the school district does not comply with the requirements under this subchapter.

(5) The school district shall certify to the department annually, on a form provided by the department, all of the following:

(a) Debt service payments eligible for aid under this subchapter for the current fiscal year.

(b) The amount identified under s. PI 24.06 (1) (a) 2. was expended for SAGE classroom expansion purposes and no other purpose. No annual aid payment shall be made to the school district until the department receives this certification. The school board president and school board clerk shall sign this attestation.

NOTE: PI-7206 SAGE Classroom Expansion, State Aid Claim, may be obtained at no charge from the Department of Public Instruction, P. O. Box 7841, Madison, WI 53707-7841.

(6) The school district under this subchapter shall record payments received as revenue in the district's general fund.

FINDING OF EMERGENCY

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

State Aid for Achievement Guarantee Contracts:

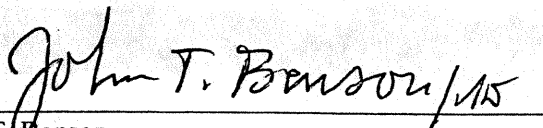
The department will send SAGE contract information to school districts by mid-February and require proposed contracts to be submitted to the department by April 1, 2000. Emergency rules are necessary to clarify the eligibility criteria and requirements for school districts applying for state aid for achievement guarantee contracts in time for the 2000-2001 school year.

Partial Debt Service Reimbursement:

On or after October 29, 1999, a school board must adopt an initial resolution under s. 67.05 (6a), Stats., for issuance of bonds where the purpose for borrowing includes providing funds for classroom expansion necessary to fulfill a contract under s. 118.43, Stats. Emergency rules are necessary to clarify the criteria and procedures for SAGE school districts to receive partial debt service reimbursement for the 2000-2001 school year.

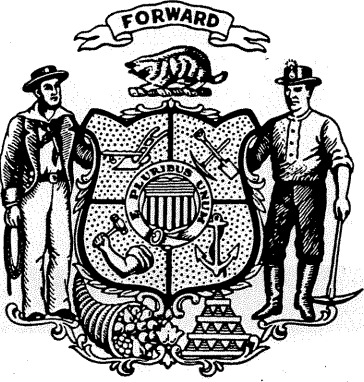
The proposed rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s.227.24, Stats.

Dated this 28th day of January, 2000



John T. Benson
State Superintendent

END



END



State of Wisconsin Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

10
John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

May 1, 2000

The Honorable Judith Robson, Co-Chair
Joint Committee for the Review of Administrative Rules
15 S, State Capitol
Madison, WI 53702

The Honorable Glenn Grothman, Co-Chair
Joint Committee for the Review of Administrative Rules
15 N, State Capitol
Madison, WI 53702

Dear Senator Robson and Representative Grothman:

The Department of Public Instruction is submitting this letter as a petition to extend for 60 days the effective period of the emergency rule relating to the Milwaukee parental school choice program.

1999 Wisconsin Act 9 created new provisions under s. 119.23, Stats., relating to the Milwaukee Parental School Choice Program (MPSCP). To reflect the statutory changes, Chapter PI 35, has been modified to:

- Specify voucher payment provisions for MPSCP summer school programs; and
- Calculate the annual voucher amount under the MPSCP.

Other changes have been made to ensure that participating schools are safe and to make it easier for parents to participate in the program, including:

- Calculating the annual income limits for participation in the MPSCP in a more timely fashion. Calculating the income eligibility limits earlier will allow schools to notify the department of their intent to be in the program and permit parents to apply to participating schools earlier. Such a change will make the MPSCP application process more in line with the application processes for other educational option programs in Milwaukee.
- Ensuring parents a fair opportunity to submit an application to a choice school by requiring that open application periods for the program set by the private schools will have to be at least 14 days in length.
- Requiring current and new choice schools to submit an occupancy certificate showing compliance with building codes.

The emergency rules will expire June 2, 2000. The proposed permanent rules were submitted to the Legislative Council Rules Clearinghouse on January 7, 2000. The department held a public hearing on March 20, 2000 in Milwaukee. Notice of rules in final draft form were submitted to the presiding officers of each house of the legislature on April 10. We hope to have permanent rules in place by August 1, 2000.

We are requesting this extension to ensure that procedures relating to program participation remain in place during the legislative review period of the proposed permanent rules. If you have any questions relating to this request, please contact Charlie Toulmin, Milwaukee Parental School Choice Consultant, at (608) 266-2853. Thank you for your consideration of this request.

Sincerely,

John T. Benson
State Superintendent

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
ADOPTING EMERGENCY RULES**

The state superintendent of public instruction hereby rennumbers and amends PI 35.03 (5) (intro.), and PI 35.04 (2) to (5); amends PI 35.02 (8) and (11), PI 35.025, PI 35.03 (1) (a), PI 35.03 (2) (e), PI 35.04 (title) and (1), PI 35.045 (1) (e) 3., PI 35.05 (3) (b) (intro.) and 1. to 4., and PI 35.05 (4) and (5); and creates PI 35.03 (3), PI 35.04 (2), (3), and (8), PI 35.045, and PI 35.05 (6) and (9), relating to the Milwaukee parental school choice program.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: s. 227.11(2)(a), Stats.

Statute interpreted: s. 119.23, Stats.

1999 Wisconsin Act 9 created new provisions under s. 119.23, Stats., relating to the Milwaukee Parental School Choice Program (MPSCP). To reflect the statutory changes, Chapter PI 35, has been modified to:

- Specify voucher payment provisions for MPSCP summer school programs; and
- Calculate the annual voucher amount under the MPSCP.

Other changes have been made to ensure that participating schools are safe and to make it easier for parents to participate in the program, including:

- Calculating the annual income limits for participation in the MPSCP in a more timely fashion. Calculating the income eligibility limits earlier will allow schools to notify the department of their intent to be in the program and permit parents to apply to participating schools earlier. Such a change will make the MPSCP application process more in line with the application processes for other educational option programs in Milwaukee.
- Ensuring parents a fair opportunity to submit an application to a choice school by requiring that open application periods for the program set by the private schools will have to be at least 14 days in length.
- Requiring current and new choice schools to submit an occupancy certificate showing compliance with building codes.

SECTION 1. PI 35.02 (8) and (11) are amended to read:

PI 35.02 (8) "Enrollment" or "pupils enrolled" in the regular school year has the meaning defined under s. 121.004 (7) (a) to (cm), Stats.

(11) "Membership" in the regular school year has the meaning defined under s. 121.004 (5), Stats.

SECTION 2. PI 35.025 is amended to read:

PI 35.025 Pupil assignment council requirements. The pupil assignment council created under s. 119.23 (8), Stats., shall meet annually by April 15 to designate a date by which ~~random selection of pupils will be determined for those private schools that receive more applications than spaces available for enrollment~~ all private schools in the program must have at least one open enrollment period for choice applicants for the school year beginning the following September. The pupil assignment council shall also recommend to the state superintendent a method for ensuring that pupils will be accepted on a random basis.

SECTION 3. PI 35.03 (1) (a) is amended to read:

PI 35.03 (1) (a) The private school's method for ensuring that, except for continuing pupils in the choice program at that private school and their siblings, pupils will be accepted on a random selection basis from a new pool of applicants each school year. Waiting lists from previous school years may not be carried over and used from one year to the next.

SECTION 4. PI 35.03 (2) (e) is amended to read:

PI 35.03 (2) (e) Meet all of the requirements specified under ss. PI 35.03, 35.04, 35.043, 35.045 and 35.046.

SECTION 5. PI 35.03 (3) is created to read:

PI 35.03 (3) HEALTH AND SAFETY REQUIREMENTS. The administrator of a school in the private school choice program shall ensure that the school is meeting the requirements of s. 119.23 (2), Stats., regarding health and safety laws and codes for schools by filing with the department a copy of the private school's current certificate of occupancy issued by the city of Milwaukee. The administrator shall submit the certificate of occupancy under this subsection to the department no later than August 1 prior to the first school year of participation in the choice program, or by no later than May 1 if the school is beginning participation in the choice program with summer school.

SECTION 6. PI 35.03 (5) (intro.) is renumbered PI 35.03 (5) (a) and as renumbered, is amended to read:

PI 35.03 (5) (a) A private school participating in the private school choice program shall submit a report to the department by October 15 each school year indicating the criteria to be used in meeting the continuing eligibility standards specified under s. 119.23 (7) (a), Stats. ~~In order to continue participating in the private school choice program in the next school year, private schools shall meet at least~~

(b) A private school participating in the private school choice program shall submit a report to the department by June 30 each school year providing evidence that the school has in that school year met one of the following criteria:

(a) 1. At least 70% of the pupils in the private school choice program shall advance one grade level each year. For pupils attending a private school choice program in grades 9 through 12, "advance one grade level" means a successful completion of at least 4 credits or the equivalent as approved by the state superintendent during each school year. ~~To meet the requirement under this paragraph~~ For pupils attending a private school choice program in grades kindergarten through 8, each private school participating in the private school choice program shall ensure that each pupil in the private school choice program who is advanced one grade level has met one of the following criteria:

1. a. Achievement of 70% of the instructional objectives specific to each grade level in reading, mathematics and language arts which are introduced during each semester of the current school year. Under this ~~paragraph~~ subparagraph, a private school shall do all of the following: a. ~~Establish~~ establish written objectives and performance standards for reading, mathematics and language arts for each grade level in which pupils are enrolled in the private school choice program. b. ~~Document~~; document written criteria and methodology for evaluating pupil performance for each objective. c. ~~Document~~; and document each pupil's performance using the evaluation method specified in ~~subd. 1. b. this~~ subparagraph in a written record and maintain these records for 3 years.

2. b. Achievement of at least .08 grade equivalent increase for each month between the spring or fall and spring administration of the standardized achievement test. Under this ~~paragraph~~ subparagraph, a private school shall do all of

the following: ~~a. Report~~ report, by October 15, to the state superintendent the tests to be administered and the dates on which they will be administered. ~~b. Maintain, and maintain~~ each student's answer sheets and score information for 3 years.

(~~b~~) 2. The private school's average attendance rate for pupils in the private school choice program is at least 90%. The report required under sub. (~~5~~) (~~intro.~~) (5) (a) shall include the method used by the private school in determining the average attendance rate for pupils.

(~~c~~) 3. At least 80% of the pupils in the private school choice program demonstrate significant academic progress.

(~~d~~) 4. At least 70% of the families of pupils in the private school choice program meet parental involvement criteria established by the private school. ~~To meet the requirement under this paragraph each private school participation in the private school choice program shall, by October 15 of each school year, identify and submit to the department the parental involvement criteria it will use for the school year and by June 15 of each school year, submit to the department evidence that the criteria have been met for that school year.~~

SECTION 7. PI 35.04 (title) and (1) are amended to read:

PI 35.04 (title) **School year enrollment.** (1) A private school that participates in the private school choice program shall accept pupils on a random basis in accordance with the method ~~reviewed~~ submitted under s. PI 35.03 (1) (a) and approved under s. PI 35.05 (5). A private school may give preference to siblings of pupils ~~accepted on a random basis already enrolled in or accepted into the choice program at that private school.~~

SECTION 8. PI 35.04 (2) to (5) are renumbered PI 35.04 (4) to (7) and, as renumbered, PI 35.04 (4), (5)(intro.) and (a), and (6) (c) are amended to read:

PI 35.04 (4) A private school under this section shall notify each applicant and the applicant's parent or guardian of acceptance or nonacceptance, in writing, within 60 days after receiving the application. The private school shall retain all notices given under this section and all original applications, both accepted and nonaccepted, submitted under this chapter. The private school shall submit, with the continuing eligibility report under s. PI 35.03 (5) (b), the number of accepted and nonaccepted applications for the choice program for that school year.

(5) Annually, by September 1 ~~or within 5 days after classes begin,~~ a private school under this section shall do all of the following:

(a) Submit to the department a copy of the accepted applications that correspond to the class list submitted under par. (b). The private school shall ensure the submitted applications are complete, accurate and signed by the parent or guardian and the school administrator or his or her designee as proof of enrollment required under s. 119.23 (4), Stats.

(6) (c) Submit to the department with the membership report under par. (a), copies of any accepted applications for pupils included in the class list under par. (b) that were not previously reported under sub. (~~3~~) (~~a~~) (5) (a). The private school shall ensure that the applications submitted under this paragraph are complete, accurate and signed by the parent or guardian and the school administrator or his or her designee as proof of enrollment required under s. 119.23 (4), Stats.

SECTION 9. PI 35.04 (2), (3), and (8) are created to read:

PI 35.04 (2) A private school under this section shall establish open application periods for the following school year. The open application period shall be at least 14 days in length and may not begin prior to January 1.

(3) A private school under this section may not accept pupil applications until the school has met both of the following:

(a) The private school has submitted its notice of intent to participate form for the following school year to the department under s. PI 35.03 (1).

(b) The private school has received the department's approval under s. PI 35.05 (5) of the school's plan for randomly selecting children into the program.

(8) A private school under this section shall return to the department any checks received under s. 119.23 (4), Stats., that are not cashed within 45 days of their receipt at the school.

SECTION 10. PI 35.043 is created to read:

PI 35.043 **Summer school enrollment and payment.** (1) In this section:

(a) "Academic purposes" means summer school learning experiences that are related or similar to instruction that is offered during the rest of the school year or for which credit toward graduation is given.

(b) "Enrollment" or "pupils enrolled" in summer school means the sum of the first day of attendance, last day of attendance and the days in between the pupil was either in attendance or absent for legitimate reasons but still enrolled in the program.

(c) "Membership" for summer school payments means the school's total minutes of enrollment of eligible choice pupils in academic summer classes or laboratory periods necessary for academic purposes.

(2) A private school under this chapter may count pupils for aid membership that are enrolled in those academic summer classes or laboratory periods that are necessary for academic purposes as defined under sub. (1) (a). A private school counting pupils for aid membership under this section, shall annually, by no later than October 15 following summer school, submit to the department a summer school membership report listing the choice program pupils that were enrolled in summer school and the daily minutes each of those pupils were enrolled. The department shall provide the membership form.

(3) A private school under this chapter may include a pupil in its membership report required under sub. (2) if either of the following applies:

(a) The pupil was enrolled in the private school choice program on the 2nd Friday of January in the school term immediately preceding that summer.

(b) The pupil's application has been accepted into the private school choice program at that private school in the school term immediately following that summer.

(4) The summer school payment due to the private school shall be calculated according to s. 119.23 (4m), Stats. To determine payment, the private school shall divide the school's total summer school minutes of enrollment for their choice program pupils by 48,600; round that quotient to the nearest whole number; and multiply the resulting whole

number by the voucher amount calculated under s. 119.23 (4) (b) 2., Stats., for the school year immediately following the summer school.

(5) Summer school courses necessary for academic purposes may include all of the following:

(a) Music programs, lessons, sections or clinics.

(b) Swimming instruction programs, if taught or directed on-site.

(c) Up to 270 minutes of instructional time per pupil, per day, including field trips if accompanied by a teacher and if all pupils have equal access to field trips regardless of their ability to pay.

(6) Summer school courses necessary for academic purposes may not include any of the following:

(a) Travel time to events, including field trips.

(b) Performances, including band, orchestra, parades and plays.

(c) Recreational programs and team sports.

(d) Participation in fairs or expositions by pupil organizations, such as future farmers of America.

(e) Any offering not provided by or directed on-site by a teacher.

NOTE: The pupil count report and summer school membership report may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Private School Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

SECTION 11. PI 35.045 (1) (e) 3., is amended to read:

PI 35.045 (1) (e) 3. The private school's membership of pupils participating in the private school choice program shall be multiplied by the lesser of ~~the school district's per pupil aid eligibility~~ the amount determined under s. 119.23 (4) (b) 2., Stats., or the private school's per pupil cost under s. PI 119.23 (4) (b) 1., Stats. If the result is greater than the amount of the private school choice payments retained by the school, an adjustment payment shall be made to the private school within 60 days of the financial audit report certified by the department. If the result is less than the amount of the private school choice payments retained by the private school, the private school shall refund the amount of any overpayment to the department within 60 days of notification.

SECTION 12. PI 35.05 (3) (b) (intro.) and 1. to 4. are amended to read:

PI 35.05 (3) (b) The amount per pupil to be paid to the private school shall be determined as specified in s. 119.23 ~~(5) (a) (4), Stats.~~ (4), Stats. No aid may be paid to a private school for a pupil unless the private school has ~~provided the information required~~ met the requirements under ss. PI 35.03 ~~(4),~~ 35.04, 35.043, 35.045 and 35.046. The payment schedule is as follows:

1. The September payment shall be based on the number of pupils receiving instruction at the beginning of the school year as indicated on the class list and the accepted, eligible applications for those pupils submitted under s. PI 35.04 ~~(3) (b) (5) and the July 1 estimated~~ amount per pupil as determined under s. ~~121.15 (4)~~ 119.23 (4), Stats., multiplied by 25%.

2. The November payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on October 1 under s. PI 35.04 ~~(4) (a) (6)~~ and the ~~October 15~~ amount per pupil as determined under s. ~~121.15 (4)~~ 119.23 (4), Stats., ~~that the school district will receive in the current school year~~, multiplied by 50%, less the September payment. The November payment shall include any payments from the state for summer school instruction for choice program pupils at the school in the immediately preceding summer, as calculated under s. PI 35.043, divided by the number of pupils reported on the October 1 membership report.

3. The February payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on February 1 under s. PI 35.04 ~~(4) (a) (6)~~ and the ~~October 15~~ amount per pupil as determined under s. ~~121.15 (4)~~ 119.23 (4), Stats., ~~that the school district will receive in the current school year~~, multiplied by 25%.

4. The May payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on February 1 under s. PI 35.04 ~~(4) (a) (6)~~ and the ~~October 15~~ amount per pupil as determined under s. ~~121.15 (4)~~ 119.23 (4), Stats., ~~that the school district will receive in the current school year~~, multiplied by 25%.

SECTION 13. PI 35.05 (4) and (5) are amended to read:

PI 35.05 (4) The state superintendent shall annually inform the pupils and parents who reside in the city of the private schools participating under this chapter. The state superintendent shall, by no later than January 1 prior to the following school year, make available the notice of school's intent to participate form, an informational brochure for parents, and the choice program pupil application form.

(5) The state superintendent shall, prior to the first school year that a private school participates in the program under this section, review and approve the proposal submitted under s. PI 35.03 (1) (a) to ensure that pupils are accepted on a random basis. After the first school year of a private school's participation, the state superintendent shall review and approve any changes to the proposal submitted under s. PI 35.03 (1) (a).

SECTION 14. PI 35.05 (6) and (9) are created to read:

PI 35.05 (6) In accordance with s. 119.23 (2) (a) 1., Stats., the state superintendent shall, by no later than December 1, calculate the income limits for pupil participation in the program for the school year beginning the next September. The limits shall be calculated as follows:

(a) Increase the most recent federal poverty level available from the federal office of management and budget by the increase in the urban consumer price index between January 1 and October 31 of the current calendar year.

(b) Multiply the amount determined under par. (a) by 1.75.

(9) The state superintendent shall annually review academic summer classes or laboratory periods that are necessary for academic purposes at private schools under this chapter, for payment under s. PI 35.043.

SECTION 15. In the sections of the rules listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A Rule Sections as Renumbered	B Old Cross-References	C New Cross-References
PI 35.04 (7) (a)	sub. (4) (a)	sub. (6) (c)
PI 35.04 (7) (b)	sub. (5) (a) 2.	par. (a) 2.

FINDING OF EMERGENCY


The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public health, safety or welfare. A statement of the facts constituting the emergency is:

Emergency rules are necessary to clarify the eligibility criteria and requirements for parents and participating private schools in time for schools to properly establish procedures for the 2000-2001 school year. Furthermore, emergency rules are necessary to allow the private schools to begin planning summer school programs. The department is in the process of developing permanent rules, but such rules will not be in place prior to January 2000.

The requirements established under this rule have been discussed with the private schools and initial indications reflect an acceptance of these provisions.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Dated this 4th day of January 2000


 John T. Benson
 State Superintendent

SENATOR JUDITH B. ROBSON
CO-CHAIR
P.O. BOX 7882
MADISON, WI 53707-7882
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR
P.O. BOX 8952
MADISON, WI 53708-8952
(608) 264-6486

**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

May 11, 2000

Superintendent John Benson
Department of Public Instructions
124 South Webster Street
Madison, Wisconsin

BY INTER-D MAIL


Re: Emergency Rule PI 35


Dear Superintendent Benson:

We are writing to inform you that the Joint Committee for the Review of Administrative Rules (JCRAR) held a public hearing and executive session on May 10, 2000. At that meeting, the JCRAR received public testimony regarding Emergency Rule PI 35, relating to the Milwaukee Parent School Choice Program. Based on that testimony, the committee adopted a motion extending Emergency Rule PI 35 for 60 days. The committee approved the motion on a 9 to 1 vote.

Pursuant to § 227.24(2)(c), *Stats.*, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,


Senator Judith B. Robson
15th Senate District


Representative Glenn Grothman
59th Assembly District

JBR:GG:da

SENATOR JUDITH B. ROBSON
CO-CHAIR

PO BOX 7882
MADISON, WI 53707-7882
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

PO BOX 8952
MADISON, WI 53708-8952
(608) 264-8486

**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

Emergency Rule Extension Motion Form

Last Modified May2000

Date 5/10/00 Location 201 SE
Moved by Grobschmidt, Seconded by Robson

THAT, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule PI 35 by 60 days, at the request of the Department of Public Instruction.

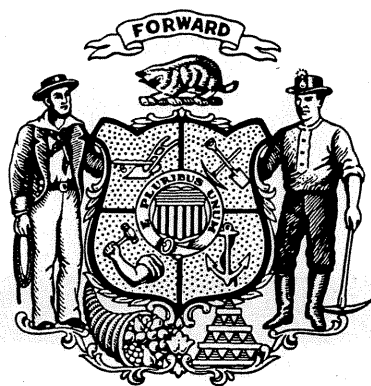
COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator SHIBLISKI	✓		
4. Senator WELCH		✓	
5. Senator SCHULTZ	✓		
6. Representative GROTHMAN	✓		
7. Representative GUNDERSON	✓		
8. Representative SERATTI	✓		
9. Representative KREUSER	✓		
10. Representative BLACK	✓		
Totals	9	1	

* polled by telephone

Motion Carried

Motion Failed

END



END



5

State of Wisconsin Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

May 1, 2000

The Honorable Judith Robson, Co-Chair
Joint Committee for the Review of Administrative Rules
15 S, State Capitol
Madison, WI 53702

The Honorable Glenn Grothman, Co-Chair
Joint Committee for the Review of Administrative Rules
15 N, State Capitol
Madison, WI 53702

Dear Senator Robson and Representative Grothman:

The Department of Public Instruction is submitting this letter as a petition to extend for 60 days the effective period of the emergency rule relating to alternative education grants.

1999 Wisconsin Act 9 created an alternative education grant program under s. 115.366, Stats.. The Act also requires the department to promulgate rules to administer the program and to define alternative education programs to be funded.

In compliance with the Act, the proposed rules establish criteria and procedures for awarding alternative education program grants. The definition of an alternative education program reflects the statutory definition of alternative education programs under s. 115.28 (7) (e), Stats.

The Act appropriated \$5,000,000 for the 2000-2001 school year. The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department sent grant application materials to school districts in January. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

Grants will be awarded for a 5 year period (100% for the first 3 years, 60% for the 4th year, 40% for the 5th year). Grant recipients: 1) may not use these funds to supplant alternative education program funding received from other local, state or federal sources, and 2) shall agree to participate in any state level evaluations of the program as required by the state superintendent.

The emergency rules will ~~expire June 26, 2000~~. The proposed permanent rules were submitted to the Legislative Council Rules Clearinghouse on December 21, 1999. The department held public hearings on March 9, 14, and 15, 2000 in Fennimore, Gillett, and Chippewa Falls, respectively. Notice of rules in final draft form were submitted to the presiding officers of each house of the legislature on April 10. We hope to have permanent rules in place by August 1, 2000.

We are requesting this extension to ensure that procedures relating to program participation remain in place during the legislative review period of the proposed permanent rules. If you have any questions relating to this request, please contact Larry Allen, Director, Education Options, at (608) 267-2402. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Benson", is written over a horizontal line.

John T. Benson
State Superintendent

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
ADOPTING EMERGENCY RULES**

The state superintendent of public instruction hereby proposes to create Chapter PI 44, relating to alternative education grants.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: ss. 115.366 (2) and 227.11 (2) (a), Stats.
Statute interpreted: s. 115.366, Stats.

1999 Wisconsin Act 9 created an alternative education grant program under s. 115.366, Stats.. The Act also requires the department to promulgate rules to administer the program and to define alternative education programs to be funded.

In compliance with the Act, the proposed rules establish criteria and procedures for awarding alternative education program grants. The definition of an alternative education program reflects the statutory definition of alternative education programs under s. 115.28 (7) (e), Stats.

The Act appropriated \$5,000,000 for the 2000-2001 school year. The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department will send grant application materials to school districts in January. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

Grants will be awarded for a 5 year period (100% for the first 3 years, 60% for the 4th year, 40% for the 5th year). Grant recipients: 1) may not use these funds to supplant alternative education program funding received from other local, state or federal sources, and 2) shall agree to participate in any state level evaluations of the program as required by the state superintendent.

SECTION 1. Chapter PI 44 is created to read:

CHAPTER PI 44

GRANTS FOR ALTERNATIVE EDUCATION PROGRAMS

PI 44.01 Purpose. Under s. 115.366, Stats., beginning in the 2000-2001 school year, school districts and consortia of school districts may apply to the state superintendent for an alternative education program grant as defined by the state superintendent. This chapter sets forth criteria and procedures for awarding alternative education program grants.

PI 44.02 Definitions. In this chapter:

(1) "Alternative education program" means an instructional program, approved by the school board, that utilizes successful alternative or adaptive school structures and teaching techniques and that is incorporated into existing, traditional classrooms or regularly scheduled curricular programs or that is offered in place of regularly scheduled curricular programs. "Alternative educational program" does not include a private school or a home-based private educational program.

(2) "Consortia of school districts" means a school board in cooperation with another school board under an agreement under s. 66.30, Stats., or a CESA board under s. 116.03 (3), Stats.

(3) "School board" has the meaning defined in s. 115.001 (7), Stats.

(4) "State superintendent" means the state superintendent of public instruction for the state of Wisconsin.

PI 44.03 Eligible applicants and program requirements. (1) A school district or a consortia of school districts may apply to the state superintendent for a grant under this chapter.

(2) An alternative education program funded under this chapter shall be designed for pupils' having difficulty succeeding in the regular school setting as evidenced by, but not limited to, any of the following:

- (a) Academic failure.
- (b) Truancy.
- (c) Expulsion or suspension.
- (d) Disruptive behavior.
- (e) Criminal involvement.
- (f) Violent behavior.
- (g) Alcohol and other drug abuse involvement.

PI 44.04 Grant application requirements. Annually, an eligible applicant under this chapter shall submit an application that includes all of the following:

- (1) The need for the alternative education program.
- (2) The type of pupils who will be served by the alternative education program.
- (3) Evidence of collaboration and coordination to develop or maintain partnerships that will help facilitate this alternative education program.
- (4) An outline of the measurable program goals, objectives, activities, and related timelines.
- (5) A schedule for program implementation.
- (6) An explanation of how the alternative education program will continue at the completion of the grant period.
- (7) A description of how the alternative education program will be evaluated during its implementation and at the conclusion of the grant period.

NOTE: Form PI-9710, Alternative Education Program Grant Application, may be obtained at no charge from the Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841.

PI 44.05 Review of applications and awarding of grants. (1) The state superintendent, annually, shall establish funding limits for programs under this chapter based on the amount appropriated for the program under s. 20.255 (2) (cf), Stats.. The state superintendent shall inform school districts of the funding limits by letter which will accompany application materials for a program under this chapter.

(2) The state superintendent shall determine the amount of funds to be awarded to each applicant. The state superintendent shall award grants for a 5 year period, if funding is available, as follows:

- (a) A grant shall be awarded at 100% of the amount originally granted for the first 3 years.
- (b) A grant shall be awarded at 60% of the amount originally granted for the fourth year.

(c) A grant shall be awarded at 40% of the amount originally granted for the fifth year.

(3) The state superintendent shall determine which of the applicants will receive grants under this chapter using the following criteria:

(a) Programs in which the goals and objectives relate to the desired effect of the alternative education program.

(b) Programs in which activities are appropriate to the goals and objectives of the alternative education program.

(c) Programs that demonstrate the adequacy of the schedule of implementation and the extent to which continuation of the program activities is ensured after the grant period is completed.

(d) To the extent possible, grants shall benefit the greatest number of school districts and pupils. Therefore, preference in awarding grants may be given to programs developed and operated in cooperation with other school districts or CESA boards.

(e) To the extent possible, the grants shall be distributed equally throughout the state.

(f) To the extent possible, grants shall be awarded to school districts of varying sizes, as determined by enrollment.

(4) Grants awarded may not be used to supplant alternative education program funding received from other local, state or federal sources.

(5) Grant recipients shall agree to participate in any state level evaluations of the program as required by the state superintendent.

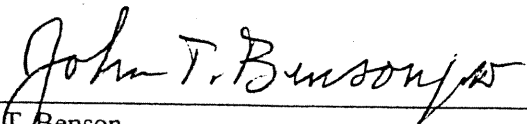
FINDING OF EMERGENCY

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

1999 Wisconsin Act 9 appropriated \$5,000,000 to be awarded by the department to eligible school districts or consortia of school districts in the 2000-2001 school year. Emergency rules are necessary to clarify the eligibility criteria and procedures for school districts or consortia of school districts to apply for funds under the program.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Dated this 28th day of January, 2000



John T. Benson
State Superintendent



State of Wisconsin
Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.state.wi.us/agencies/dpi

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

Chapter PI 44 Emergency Rule
Testimony for the Joint Committee for the Review of Administrative Rules
June 21, 2000

Good morning Chairpersons Robson and Grothman and committee members, I am Beth Lewis, a School Administration Consultant for the Alternative Education Program and I am testifying on behalf of State Superintendent John Benson and the Department of Public Instruction.

At this time the Department of Public Instruction is requesting extension of the emergency rule relating to the alternative education grant program. PI 44 has been reviewed by the legislative education committees and will become effective August 1, 2000. In effect, the department is requesting extension of this rule from June 26 until August 1, 2000; a total of 35 days.

As background, let me share that the alternative education grant program became available as part of 1999 Act 9, which was enacted, in late October of 1999. Act 9 created §115.366, Stats., which appropriated \$5 million for the 2000-01 school year and required the department to promulgate rules to administer the program and to define the alternative education programs to be funded.

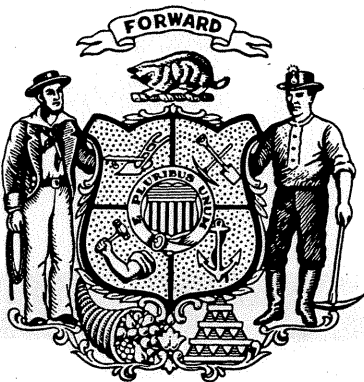
The department prepared and enacted emergency rules effective January 28, 2000. The proposed rules were submitted to the Legislative Council Rules Clearinghouse on December 21, 1999. The department held public hearings on March 9, 14, and 15, 2000 in Fennimore, Gillett, and Chippewa Falls, respectively. Notice of rules in final draft form was submitted to the presiding officers of each house of the legislature on April 10, 2000.

At the same time, the department prepared to administer the alternative education grant program. Informational meetings were held January 25, 26, 27, February 1, 2, and 3 at Turtle Lake, Tomahawk, Oshkosh, LaCrosse, Milwaukee and Madison, respectively. At these meetings, the emergency rule, application and program information was shared. The program has been established to award grants for a five year period (the first three years at 100%, the 4th year at 60% and the 5th year at 40%). On the due date, April 10, 2000, the department received 139 applications requesting \$15.2 million in funding. Through an external and internal review process, the department awarded 60 grants totaling \$5 million during the first week in May.

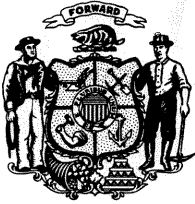
As you can see the department has worked hard to meet the time requirements imposed by the new statutory language. I hope that it will be possible to provide the 35 day transitional extension of the emergency rule that is being requested.

Thank you for your time and attention to this matter.

END



END



Public Service Commission of Wisconsin

JUN 05 2000

6

Ave M. Bie, Chairperson
Joseph P. Mettner, Commissioner
John H. Farrow, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

The Honorable Judy Robson, Co-chairman
Joint Committee for Review of Administrative Rules
15 South, State Capitol
Madison, WI 53703

The Honorable Glenn Grothman, Co-chairman
Joint Committee for Review of Administrative Rules
125 West, State Capitol
Madison, WI 53703

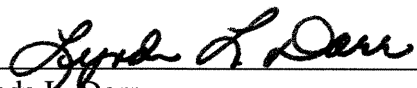
Re: In the Matter of Proposed Emergency Revision of Chapter PSC 116 1-AC-197
Wis. Adm. Code – Cost of Fuel

Dear Senator Robson and Representative Grothman:

At its open meeting on May 25, 2000, the Public Service Commission adopted an emergency rule concerning the cost of fuel. Enclosed please find copies of a certificate, Commission order with attached emergency rule, and fiscal estimate regarding this emergency rule. If you have questions or concerns, please contact Commission attorney Mr. Leon M. Swerin at (608) 267-3589 or Commission Electric Division Administrator Robert D. Norcross at (608) 266-0699.

Dated at Madison, Wisconsin, May 31, 2000

By the Commission:



Lynda L. Dorr
Secretary to the Commission

LLD:DL:mcm:L:\Rulemaking\1-AC-197\Notice to ' the Legislature

Enclosures

cc: Chief Clerks of the Senate and Assembly
Legislative Members

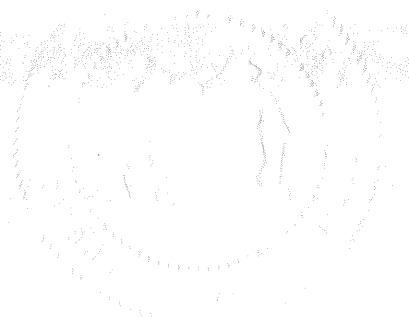
CERTIFICATE

STATE OF WISCONSIN)
) ss.:
PUBLIC SERVICE COMMISSION)

I, Lynda L. Dorr, Secretary to the Commission and custodian of the official records, certify that the annexed rules, cost of fuel for proposed actions before the Commission (docket 1-AC-197), were duly approved and adopted by this Commission on May 25, 2000.

I further certify that this copy has been compared by me with the original on file in this Commission and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Wisconsin Public Service Commission at Madison, Wisconsin, this 31st day of May, 2000.



Lynda L. Dorr

Lynda L. Dorr
Secretary to the Commission
Wisconsin Public Service Commission

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of Proposed Emergency Revision of Chapter PSC 116,
Wis. Adm. Code – Cost of Fuel

1-AC-197

**ORDER OF THE PUBLIC SERVICE COMMISSION
ADOPTING EMERGENCY RULES**

The Public Service Commission of Wisconsin adopts an emergency rule to amend §§PSC 116.03(4) and create 116.04(6) Wis. Adm. Code, relating to the definition of fuel and permissible fuel costs.

Analysis by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02(1) and (3), 227.11 and 227.24, Stats.

Statutes interpreted: ss. 196.20(4) and 196.192(2)(a), Stats.

1999 Wisconsin Act 9, s. 196.192(2)(a), Stats. required investor-owned utilities to file with the Commission rates that result in customers receiving market-based compensation for voluntary interruptions of firm load during peak periods of electric use. This creates an option that can result in a buydown of firm customers' demand as a direct alternative to purchasing power that is monitored under the fuel rules set forth at Chapter PSC 116, Wis. Adm. Code.

This buydown is a direct alternative to purchasing power on the wholesale market. This would allow a utility to avoid making a purchase of power in favor of paying firm customers to reduce their usage. Presently, the cost to buy back firm load does not meet the definition of "fuel" set forth at s. PSC 116.03(4) Wis. Adm. Code.

Fiscal Estimate

A fiscal estimate is attached to this order.

State of Emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend Chapter PSC 116 Wis. Adm. Code. Amending the definition of "fuel" in s. PSC 116.03(4) and creating s. PSC 116.04(6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2000 and beyond. This change would assist in implementing the requirement of 1999 Wisconsin Act 9, s. 196.192(2)(a), Stats.

Order of Adoption

Pursuant to ss. 196.02(1) and (3), 227.11 and 227.24, Stats., the Commission amends ss. PSC 116.03(4) and creates s. 116.04(6), Wis. Adm. Code. The attached emergency rule takes effect upon publication.

Dated at Madison, Wisconsin, May 25, 2000

By the Commission:



Lynda L. Dorr
Secretary to the Commission

LLD:LMS:sma:g:\order\pending\1-AC-197 adopting emergency rules

EMERGENCY RULES

SECTION 1. PSC 116.03(4) is amended to read:

PSC 116.03(4) "Fuel" means coal, gas, nuclear fuel, oil, any other type of material used to generate electricity, ~~and electricity purchased or sold wholesale,~~ and the voluntary curtailable load acquired under s. 196.912(2)(a), Stats.

SECTION 2. PSC 116.04(1)(b)6. is created to read:

PSC 116.04(1)(b)6 The costs incurred in acquiring voluntary curtailable load under s. 196.192(2)(a), Stats.

SECTION 3. EFFECTIVE DATE. As provided in s. 227.24(1)(c), Stats., the rules contained in this emergency order take effect upon publication in the official state newspaper.

(End)

LRB or Bill No./Adm. Rule No.
PSC Rule 116 (1-AC-197)

Amendment No. if Applicable

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

Emergency Rule Revisions for Cost of Fuel

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____
 - School Districts
 - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

20.155(l)(i)

Assumptions Used in Arriving at Fiscal Estimate

1999 Wisconsin Act 9, s. 196.192 (2)(a), Stats., required investor-owned utilities to file with the Commission rates that result in customers receiving market based compensation for voluntary interruptions of firm load during peak periods of electric use.

This addition to Chapter PSC 116 Wis. Admin. Code would not result in increased costs to the Commission, or other units of Government.

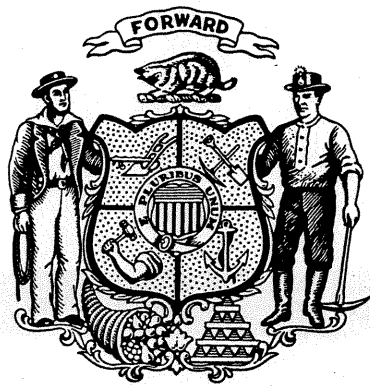
Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
PSC/Gordon Grant 267-9086

Authorized Signature/Telephone No.

Date
05/18/00

END



END

SENATOR JUDITH B. ROBSON
CO-CHAIR
PO Box 7882
MADISON, WI 53707-7882
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR
PO Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 1, 2000

Representative Lorraine Seratti
18 North

Dear Representative Seratti:

Thank you for your recent letter urging the Joint Committee for Review of Administrative Rules to hold a hearing on administrative rule NR 16, relating to permits for fish farms.

After receiving your request we asked the Department of Natural Resources for more information on the issues you raised in your letter. We then held a meeting with representatives of the Department and with Mr. Dave Gollon, President of the Wisconsin Aquaculture Association, and Mr. Raymond Roder, an attorney for the Association. This meeting took place on October 24.

Much of the discussion at that meeting focused on two issues. The first issue was the definition of "natural body of water" in NR 16. The other was the meaning of the phrase "substantial change" as that phrase is used in section 29.733(2)(c), *stats*.

Based on the positions taken by the parties at the October 24 meeting, we believe that it is possible that the Department and the Association will reach an agreement on these issues. Because an agreement is possible without committee or legislative action, we are not inclined to have the JCRAR hold a hearing on NR 16 at this time.

Thank you for bringing this issue to our attention.

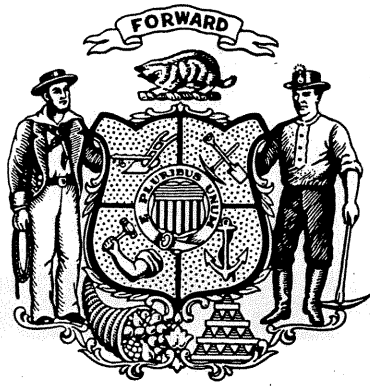
Sincerely,


Senator Judith Robson

JBR:GG:da


Representative Glenn Grothman

END



END

SENATOR JUDITH B. ROBSON
Co-Chair



REPRESENTATIVE GLENN GROTHMAN
Co-Chair

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2253

P.O. Box 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

June 23, 2000

Brenda Blanchard, Secretary
Department of Commerce
123 West Washington Avenue
Madison, WI 53707-7970

Dear Secretary Blanchard:

The Joint Committee for the Review of Administrative Rules met in Executive Session on June 21, 2000 and adopted the following motion:

Emergency Rule Comm 47.53

Relating to appeals of decision issued under the PECFA program. Submitted by the Department of Commerce.

Moved by Representative Grothman, seconded by Senator Welch that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Comm 47.53 by 60 days, at the request of the Department of Commerce.

Ayes: (10) Representatives Grothman, Gunderson, Seratti, Kreuser and Black; Senators Robson, Grobschmidt, Shibilski, Schultz and Welch.

Noes: (0)

Absent: (0)

Motion Carried: Extension Granted.
10 Ayes, 0 Noes, 0 Absent.

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

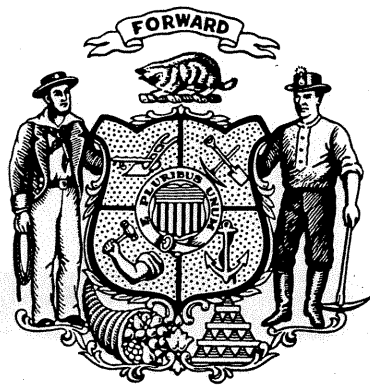
Senator Judith B. Robson
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JBR:GSG:mjg

cc: Secretary of State Doug LaFollette
Revisor of Statutes Gary Poulson

END



END